



Appeal Decision

Site visit made on 14 December 2020

by David Cliff BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2021.

Appeal Ref: APP/L3625/W/20/3256945

136-140 Brighton Road, Burgh Heath, Tadworth, KT20 6AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Mumford (Rushmon Ltd) against the decision of Reigate & Banstead Borough Council.
 - The application Ref 20/00314/F, dated 6 January 2020, was refused by notice dated 15 April 2020.
 - The development proposed is described in the application form as 'full planning permission for the demolition of 138 and the erection of 1 detached bungalow, 1 semi-detached house, 1 terrace house and 6 no maisonettes with associated access, parking and amenity space on the land at and to the rear of 136-140 Brighton Road, Burgh Heath, Surrey KT20 6AQ'.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of 138 Brighton Road and the erection of 1 detached bungalow, 2 terrace houses and 6 no. maisonettes with associated access, parking and amenity space at 136-140 Brighton Road, Burgh Heath, Tadworth, KT20 6AQ in accordance with the terms of the application Ref 20/00314/F dated 6 January 2020, and subject to the conditions in the attached schedule.

Preliminary Matters

2. Notwithstanding the description of development in the banner heading above which has been taken from the planning application form, in my formal decision I have used the description set out in both the Council's decision notice and on the appeal form as this more clearly describes the appeal proposals.
3. The appellant has submitted three revised plans with the appeal. Drawing 5547-007E shows that the bedroom windows to flats 3 and 5 facing the rear garden of 140 Brighton Road would be obscure glazed. Secondly, an amendment to the position of the first floor front bedroom window to plot 9 is shown on drawing 5547-008E as an 'alternative'. Notwithstanding, that the later is proposed as an 'alternative' I have based my decision on both these drawings. Both drawings submitted seek to overcome particular concerns raised by the Council regarding the effect upon living conditions of existing and future residents. I am satisfied that the revisions are not so significant to materially alter the nature of the application and neither would prejudice the interests of any interested parties.

Main Issues

4. The main issues are:

- i) The effect of the proposed development upon the character and appearance of the area (including the potential effect upon existing trees within the site);
- ii) Whether the proposal would provide for satisfactory residential living conditions for future occupiers of the development; and
- iii) The effect upon the living conditions of the occupiers of neighbouring residential properties, with particular regard to the outlook from 140 and 142 Brighton Road.

Reasons

Character and appearance

- 5. The proposed bungalow (plot 1) would be located close to the south flank boundary of the site. Nevertheless, several other existing properties along this frontage are also close to at least one of their side boundaries. The opportunity for landscaped areas at the front of the plot on either side of the proposed driveway would reduce its visual impact when viewed from the road to the front. Whilst, its plot width would be narrower than others, taking into consideration its low eaves, height and modest massing, the proposed building would not appear as unacceptably cramped or visually intrusive within the streetscene. Therefore, the proposal would not result in an undue disruption to the character and appearance of the existing street frontage.
- 6. The proposed buildings to the rear (plots 2 to 9) would be located to the rear of existing dwellings and set well back from the road frontage. This positioning would mean that these two storey buildings would not appear as being visually prominent or intrusive within the streetscene, whether viewed from the adjacent road to the front of the dwellings or from the A217 dual carriageway.
- 7. The existing frontage dwellings along Brighton Road are generally not well separated. Furthermore, the existing dwellings to the south and west of the site are positioned reasonably close together without substantial open spaces between them. Whilst the proposed dwellings would take up existing open garden areas, I note that the Council does not object to the principle of residential development on this site. Furthermore, within the context of surrounding development, I do not consider that the spacing between the proposed buildings, or between existing and proposed buildings would amount to an unacceptably cramped or incongruous development.
- 8. Although the density of the proposed development would be greater than the existing density in the vicinity of the site, the National Planning Policy Framework (paragraph 127) stresses that change such as increased densities should not be prevented or discouraged.
- 9. The site is not within a designated Residential Area of Special Character. Although the proposed plot sizes including gardens and the remaining garden areas of the existing dwellings (136 and 140 Brighton Road) would be smaller than those prevailing around the site, any actual harm arising from this upon general character and appearance would be minimal, given their location to the rear of the frontage dwellings and away from public vantage points. The

buildings comprising plots 2 to 9 have been designed as two separate buildings each subdivided into separate units. Whilst being of two storey height, their general size, massing and appearance would not be so substantial to appear as being visually dominant within their surrounds.

10. A proposed vehicle parking and manoeuvring area would be located between the two proposed buildings at the rear and in front of plots 6-9, with only a narrow footway separating these spaces from the front of the building. Whilst the areas of landscaping to be provided and retained elsewhere within the scheme would help to alleviate the impact, this relationship with a large and dominant hardstanding immediately to the front of a building, would detract to a limited extent from the overall quality of the overall residential environment provided. This would not be something that would be visible or detrimental in the wider public domain but would result in some limited internal harm in terms of the overall design quality of the scheme.
11. Trees of reasonable and good amenity value are located towards the rear of the site. Although the side elevation of the part of the building comprising plots 6 and 7 would be located close to existing trees, the submitted arboricultural information from the Appellant shows how these trees could be satisfactorily protected during construction and retained thereafter. The side elevation of the building would contain the front entrance to a ground floor apartment along with two habitable room windows. Notwithstanding this, an open amenity area would be provided to the rear, away from the canopy spread of any tree. Similarly, whilst existing trees to be retained would be fairly close to proposed rear and side windows of the building comprising plots 2 to 5, the spacing would be sufficient for a reasonable outlook and levels of day/sun light to be obtained for future occupiers. Taking account of the arboricultural evidence provided by the appellant including the day and sunlight study, I am satisfied that the positioning of the trees in relation to the proposed buildings and their windows, in addition to the location of the external amenity/garden areas would ensure that there would not be any significant future pressures for the removal or significant pruning of existing trees of significance within or adjacent to the site. The scheme would generally allow for the retention of those trees of good amenity value which will help to assimilate the development into its surroundings and preserve the character and appearance of the surrounding area.
12. The scheme as a whole would not result in any unacceptable impacts upon the wider character and appearance of the area, including any implications for existing trees. The proposed parking and manoeuvring area would result in some albeit limited harm to the overall design quality of the scheme, contrary to the design aims of Policies DES1 and DES2 of the Reigate and Banstead Local Plan Development Management Plan September 2019 ('the Development Management Plan'). This weighs to a limited degree against the scheme.

Residential living conditions for future occupiers

13. There would be some overlooking of the rear garden of plot 1 from the upper floor bedroom windows of plot 9, particularly from the window located closest to plot 1's garden. However, the main habitable room windows of plot 1 would not be overlooked. Taking account of the revised positioning of the nearest first floor window of plot 9, I do not consider that such direct overlooking of the rear

garden of plot 1 would result in an unacceptable or inappropriate residential environment for future occupiers of plot 1.

14. The proposed access road would pass close to the north elevation of plot 1. This elevation contains two windows to the kitchen/dining/living room. However, this room also contains a large window in the west elevation which would not directly face the proposed access road. Whilst passing cars would be audible from the dwelling and its garden area, they are unlikely to pass at a great speed and the limited frequency of vehicles arising from the eight other modestly sized dwellings would not be likely to result in unacceptable impacts from noise and disturbance for future occupiers of plot 1.
15. For plots 3 and 5 the appellant's amended plans include the use of obscure glazing and directional windows serving the four first floor bedroom windows that would face towards 140 Brighton Road. These arrangements to a limited degree would constrain the outlook from the bedroom windows. However, in each case at least one clear glazed and openable window would remain for each bedroom. For three of the bedrooms, these windows would be relatively small, but overall I am satisfied that the proposed window arrangements would provide for an acceptable outlook and would not significantly compromise the residential living environment for future occupiers.
16. For the reasons set out in paragraph 11, I am also satisfied that the relationship with the existing trees to be retained be satisfactory and would not have any unacceptable implications in terms of the outlook and levels of day/sun light for future occupants.
17. The proposals would generally provide for appropriate residential living conditions for future occupiers, in accordance with Policies DES1, DES2 and DES5 of the Development Management Plan.

Living conditions for neighbouring residents

18. The proposed obscure glazed window arrangements described above would prevent an unacceptable loss of privacy for users of the rear garden of 140 Brighton Road. The separation distance along with proposed planting would be sufficient to prevent an unacceptable impact in outlook from the rear windows or rear garden of this neighbouring property.
19. The south elevation of the proposed building comprising plots 2-5 would be located close to the side boundary of the garden of 142 Brighton Road. Whilst the two storey building would be clearly visible from this existing rear garden, it would be adjacent to the rear most part of it. The hipped roof sloping away from the side boundary would limit its overall bulk and massing. Taking account of the considerable separation distance to the rear elevation of No.142, the proposed building would not result in an unacceptable overbearing appearance for the occupiers of the existing property, including from the existing garden area. Any overlooking of the rear garden of No.142 would also be limited and not unreasonable.
20. The first floor windows of the proposed dwellings on plots 7,8 and 9 would look towards the rear portion of the existing garden of 134 Brighton Road. However, the separation distance from the proposed rear elevation containing the windows and their orientation towards the rearmost part of the garden only,

means that an unreasonable loss of privacy would not result for the occupiers of No.134.

21. The separation distance to the existing neighbouring properties on Tangier Way, along with the existing trees to be retained, would be sufficient to prevent any unreasonable impacts on residential living conditions of the occupiers of these properties, in respect of outlook, privacy and light. Any noise and disturbance from the parking area would be limited and would be unlikely to result in any significant noise and disturbance.
22. Whilst some overlooking of part of its large rear garden would result, the considerable separation distance from the side elevation of the building comprising plots 2 to 5 to the adjacent house at Tangier Wood, in combination with the existing trees near the boundary of the adjacent rear garden would ensure that there would be no unreasonable loss of privacy or significant impact on outlook for the occupiers of this neighbouring property. The arboricultural details submitted satisfactorily show how these and other existing trees are able to be retained.
23. I am satisfied that the proposal would not result in any unacceptable impacts upon the living conditions of neighbouring residential properties. It would satisfactorily accord with the amenity aims of policies DES1 and DES2 of the Development Management Plan.

Other matters

24. Taking into account the appellant's arboricultural evidence along with positioning of the proposed buildings in relation to existing trees, I am satisfied that no significant adverse effects would result upon roots of any trees in adjacent gardens. Nor is there likely to be any future pressure for any works being required to neighbouring trees.
25. Subject to a condition requiring the approval of surface water drainage, there is no evidence to suggest that adverse drainage implications would arise.
26. Reasonable visibility would be capable of being achieved from the proposed access. A condition to ensure appropriate vehicular access details is capable of ensuring that an appropriate vehicular access is created. The traffic generated by this proposal for nine dwellings would not be substantial and I am satisfied that the proposal would not result in any unacceptable highway impacts.
27. The provision of boundary treatment, which can be secured by condition, would ensure that there is not ready access from the site to the existing properties at the rear. The proposal is therefore unlikely to lead to any significant security implications for neighbouring residents.
28. The evidence does not suggest that the site contains any significant biodiversity features that would be significantly compromised by the proposed development.
29. I have considered previous appeal decisions relating to this site as referred to by the main parties. These decisions were made some time ago and pre-date current planning policy. Furthermore, I have considered the current proposal on its individual merits (including design and layout which differs from the previous proposals) taking account of the evidence before leading me to my conclusions on each of the main issues.

Planning balance

30. The proposal would provide for a net increase of eight new dwellings in an accessible location, providing a mix of two and three bedroom dwellings that would accord with the demand within the Borough. Notwithstanding that the Council is able to demonstrate over a five year supply of deliverable housing land, this would make a notable contribution to the overall supply of housing in the area and would be consistent with the aim of the National Planning Policy Framework to significantly boost the supply of housing. I have given the benefit of new housing considerable weight.
31. Further modest benefits would also be likely to result from the benefits to the local community and local economy including from the construction of the dwellings and the increased demand for local goods and services.
32. The Framework states that great weight should be given to the benefits of using suitable sites within existing settlement for homes. Whilst I have found that limited harm would arise from the dominant car parking area within the scheme, overall the scheme would safeguard the character and appearance of the wider area, would safeguard neighbouring living conditions, and would generally provide for an appropriate residential living environment. The limited harm from the proposed parking area would be outweighed by the considerable benefits of the scheme, most notably the net increase of eight dwellings within the existing settlement.
33. For these reasons, the proposal would accord with the development plan when considered as a whole.

Conditions

34. The Council has provided a list of suggested conditions should the appeal be allowed. An approved plans condition is necessary to create certainty for all parties as to what has been approved. A condition requiring the approval of materials is required to ensure the development is of a satisfactory external appearance. Conditions requiring the approval of details of levels, boundary treatments and a landscaping scheme are necessary in the interests of the character and appearance of the area and to safeguard the living conditions of the occupiers of neighbouring properties. A condition ensuring the implementation of arboricultural protections measures is needed to safeguard the existing trees to be retained to protect local character and provide an attractive setting.
35. Conditions relating to vehicular access details, the approved car parking layout and a Construction Traffic Management Plan are needed to safeguard highway safety and the free flow of traffic. Details and provision of vehicle charging sockets are required to promote sustainable car choices. Approval and implementation of an Energy and Water Efficiency Statement is required to support the efficient use of resources and minimise carbon emissions. The provision of broadband infrastructure is necessary to promote a high quality electronic communications network. A condition requiring surface water drainage details is necessary to provide an appropriate drainage system from the site and to minimise flooding risk. I have not, however, included the Council's separate condition requiring a drainage verification report as the surface water drainage condition I have imposed includes a requirement for the

system to be implemented, managed and maintained in accordance with the approved details.

36. A condition securing the implementation of ecological measures is required to protect and promote wildlife and biodiversity. A waste management condition is necessary to ensure the provision of satisfactory waste collection facilities to safeguard amenity.
37. A condition requiring the closure of the existing vehicular access is unnecessary in this instance as the provision of the new access (details of which are required by condition) would require this in any event. I have not imposed the Council's suggested condition No.10 as this does not include any details of what needs to be submitted. However, I have imposed a condition requiring the implementation of the cycle parking details as this has been recommended by the County Highways Authority and I consider it to be necessary to promote sustainable transport methods.

Conclusion

38. The proposed development would accord with the development plan when considered as a whole and there are no material considerations, either individually or cumulatively, that outweigh this finding. I conclude, therefore, that the appeal should be allowed.

David Cliff

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. Unless otherwise varied by details pursuant to the other conditions of this permission, the development hereby permitted shall be carried out in accordance with the following approved plans: 5547-001, 5547-002, 5547-003, 5547-004, 5547-005 N, 5547-006 C, 5547-007 E, 5547-008 E, 5547-009, 5547-010 A, 5547-011, 1527 LA1.
3. No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces, including fenestration and roof, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with such approved materials.
4. No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
5. No part of the development shall be occupied until boundary fences, walls or screens have been erected in accordance with details (including positions, design and materials) which shall have previously been submitted to and approved in writing by the local planning authority. The approved boundary treatment shall thereafter be retained in accordance with such approved details.
6. The development shall be carried out in accordance with the arboricultural protection measures contained within the Arboricultural Report prepared by DPA Arboricultural Consultants dated February 2020. No development shall commence, including groundworks preparation and demolition, until the relevant tree protection and monitoring measures are in place.
7.
 - i) No development shall commence until a scheme for the landscaping of the site, including the retention of existing landscape features, has been submitted to and approved in writing by the local planning authority. The scheme shall include details of hard and soft landscaping, including any tree removal/retention, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities along with a implementation and management programme.
 - ii) All hard and soft landscaping work shall be completed in accordance with the approved scheme, prior to occupation or within the first planting season following completion of the development or in accordance with a programme which shall have previously been submitted to and approved in writing by the local planning authority. Maintenance shall be subsequently carried out in accordance with the approved management programme.
 - iii) Any trees, shrubs or plants which are removed, die or become seriously damaged or diseased within a period of five years from the

completion of the development shall be replaced within the next planting season with others of similar size and species.

8. No part of the development shall be occupied until a vehicular access to the highway has been constructed in accordance with details which shall have been previously submitted to and approved in writing by the local planning authority. Such details shall also include the closure of the existing vehicular access to and from the site.
9. No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 5547-005 N for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained at all times for those purposes.
10. The development shall not be occupied until car vehicle charging sockets have been provided in accordance with a scheme that shall previously have been submitted to and approved in writing by the local planning authority. The approved charging sockets shall thereafter be retained in accordance with the approved details.
11. No development shall take place until a Construction Transport Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:
 - i) parking for vehicles of site personnel, operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials;
 - iv) provision of sightlines behind any boundary fencing; and
 - v) measures to prevent the deposit of materials on the highway.

The approved CTMP shall be adhered to throughout the demolition and construction period for the development.

12. No part of the development shall be occupied until an Energy and Water Efficiency Statement has been submitted to and approved in writing by the local planning authority. The Statement shall detail how the development will:
 - i) Ensure that the potential water consumption by occupants of each new dwelling does not exceed 110 litres per person per day;
 - ii) Achieve not less than 19% improvement in the Dwelling Emission Rate over the Target Emission Rate as defined in Part L1A of the 2013 Building Regulations.

The development shall be carried out in accordance with the approved details and any measures specific to any dwelling shall be implemented, installed and operational prior to its occupation.

13. All dwellings within the development hereby approved shall be provided with the necessary infrastructure to facilitate connection to a high speed broadband. This shall include:

- i) A broadband connection accessible directly from the nearest exchange or cabinet; and
 - ii) Cabling and associated installations which enable easy access for future repair, replacing or upgrading.
- 14. No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall include the following:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 15. The development shall be implemented in accordance with the recommendations, avoidance and mitigation measures identified in the AAE Environmental Consultant's letter dated 30 January 2020 (ref: 193435/JDT). All ecological enhancement measures shall be completed prior to first occupation of the development, with confirmation of such completion provided in writing to the local planning authority.
- 16. The development shall not be first occupied until a waste management collection point has been provided in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The waste management collection point shall thereafter be maintained for this use.
- 17. Plots 3 and 5 of the development hereby approved shall not be occupied until obscure glazed fixed shut windows are installed as indicated on drawing no. 5547-007 E and no part of the windows shown to be obscure glazed that are less than 1.7m above the floor of the room in which each is installed shall be capable of being opened. These windows shall thereafter be retained as such.
- 18. Prior to the occupation of any dwelling, cycle parking shall be provided on site in accordance with details which shall have been previously submitted to

and approved in writing by the local planning authority. The cycle parking shall thereafter be retained in accordance with the approved details.