



Appeal Decision

Site Visit made on 6 May 2021

by Rory MacLeod

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Appeal Ref: APP/L3625/W/21/3267489

Garage Block Rear of 25 Albury Road, Merstham, Surrey RH1 3LP

- 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 Baldly Son and Chandler Ltd against the decision of Reigate and Banstead Borough Council.
 - The application Ref 20/00605/F, dated 16 March 2020, was refused by notice dated 22 July 2020.
 - The development proposed is demolition of garages and construction of three new houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for a staggered terrace of three houses. Amended plans were submitted during the consideration of the application to move the terrace 1.5m to the south and to replace first floor rear facing bedroom windows with flank windows for the two end of terrace houses.

Main Issues

3. The main issues are the effect of the proposal on (a) the character and appearance of the area, (b) the living conditions of occupiers of the adjacent bungalows 14 and 15 Albury Place in relation to massing and privacy, (c) the setting of a scheduled ancient monument and (d) flood risk.

Reasons

Character and appearance

4. The appeal relates to a backland site of lock up garages accessed via a drive between 25 and 27 Albury Road. The surrounding area is mainly residential but comprises a mixture of house types and sizes. The proposed terrace would have a flat roof which would constrain its scale and massing, but which would contrast with the pitched roofs to surrounding dwellings. Plot sizes vary in the surrounding area, but those proposed would be narrower and shorter than for neighbouring development. To the north are bungalows with short gardens but the plots here are generally wider and relate to smaller single storey dwellings as opposed to the two storey houses proposed. Whereas the site is currently totally hard surfaced much would be available for gardens with hardstanding largely confined to the parking area next to the access. Nonetheless, the proposal would result in a relatively cramped form of development that would not be in keeping with or which would enhance the character of the area.

5. The proposal would thereby conflict with Policy DES1 of the Reigate and Banstead Development Management Plan (2019) (DMP) which require high quality design that makes a positive contribution to the character and appearance of its surroundings, having due regard to factors including layout, plot sizes, siting, scale and roofscapes.

Living conditions

6. Nos 14 and 15 Albury Place are a pair of semi-detached bungalows abutting the site's northern boundary with short back gardens about 6m in depth. Their rear windows are south facing directly towards the proposed terrace. Separating distances would vary due to the stagger of the houses but even with the revised siting shown in the amended plan and the flat roof, which would restrict the terrace's overall height, its mass would appear as a close, prominent and overbearing structure. The terrace would dominate the outlook from the rear windows and back gardens over the back garden fence. The centre terrace house would have a clear glazed first floor rear facing bedroom window that would overlook the short back gardens and rear windows to the bungalows resulting in a loss of privacy. Living conditions would be unduly compromised in the bedroom if a condition required both bedroom windows to be frosted.
7. As such, the proposal would be contrary to Policy DES1 requiring development to provide an appropriate environment for future occupants whilst not adversely impacting the amenity of occupants of existing nearby buildings, including by way of obtrusiveness, overlooking, loss of privacy and being overbearing. Continuation of the present storage use could result in some noise and disturbance for adjoining occupiers, but this is unlikely to be significant.

Scheduled ancient monument

8. The appeal site's south-eastern boundary abuts Albury Farm, a scheduled ancient monument (SAM) relating to a medieval moated site. Historic England were notified of the application and comment the site is "*of particular significance due to the level of documentary information which survives to accompany and inform on its history*" and that the site "*also survives exceedingly well, still contains water within the moat and the ramparts which enclosed the site still remain as significant earthworks*".
9. The front and eastern flank walls to the terrace would be visible from positions within the SAM. The terrace would not be as close as the nearest garages to be demolished but would be two stories in height and therefore more conspicuous. It would be no closer to the SAM than the flank wall to 10 Bletchingley Close, an end of terrace house that also abuts the site, but this building predates the scheduling of the monument. The appellant requests a landscape condition to enable some screening of the terrace, but soft surfaces in front of the terrace would be limited in extent to enable significant screening without harming outlook from the front windows. Nonetheless, there is a small tree beyond the site boundary that would offer limited screening from the SAM.
10. The SAM is set within a small park which appears to be well used with footpaths crossing it connecting with surrounding residential areas, including one adjacent to the appeal site boundary. As such, by reason of its height and proximity, the terrace would be a noticeable new feature to the backdrop to the SAM when viewed from this publicly accessible open space. It would have a limited adverse effect on the setting of the SAM.

11. The proposal would thereby conflict with Policy NHE9 of the DMP which requires development to protect, preserve, and wherever possible enhance designated heritage assets including their setting. The policy is consistent with Paragraph 196 of the National Planning Policy Framework (the Framework) which requires when there would be less than substantial harm to a designated heritage asset that the harm be weighed against the public benefits of the proposal. In this case the replacement of underused garage blocks in poor physical condition by housing would result in an optimum viable use of the land. This would be a public benefit that would diminish the limited harm arising to the setting of the SAM.
12. I note that the appellant has submitted a Heritage Statement which concludes that the *"level of change is considered to represent a Minor Significance of Effects on the setting of Albury Manor Scheduled Manor"*. On receipt of this, Historic England concurred that there would be *"a negligible impact to the setting of the monument"* and raise no objection on heritage grounds.

Flood risk

13. The appeal site is located about 235m upstream of the South Merstham Ditch (West), a tributary of the Redhill Brook. Historic records locate the site within Flood Zone 2. On this basis the Council set out a requirement for a sequential test to ensure that development is directed to areas at least risk of flooding. However, the appellant has submitted fluvial modelling (JFLOW) which shows that the local Flood Zone 2 extent does not include the appeal site. The modelling routes flooding over land based on topography (LiDAR) and shows the likely flooding flow route to be on lower land to the east of the site, a flow route confirmed by the Risk of Flooding from Surface Water Map. On this basis, the appellant contends that the site is considered to better fit the definition of Flood Zone 1 'Low Probability' (i.e. less than 1 in 1000 annual probability of river flooding).
14. The appellant has submitted a site specific flood risk assessment (FRA) which proposes appropriate mitigation through the setting of the finished ground floor level at least 300mm above the external ground level with all sleeping accommodation at first floor level. The Environment Agency have not objected to the proposal subject to the FRA conditions being complied with.
15. My finding, in relation to the information available, is that the proposal would not result in an unnecessary risk of flooding. There would not be substantive conflict with Policy CS10 of the Reigate and Banstead Core Strategy (2014) or with Policy CCF2 of the DMP which require proposals to avoid areas at risk of flooding where possible and to prioritise development in areas with the lowest risk of flooding.

Housing need

16. The proposal would result in the redevelopment of an underused site in a poor physical condition to housing. There would be a benefit of 3 additional dwellings of satisfactory size in a sustainable location not far from facilities within a residential area. This would make a small contribution towards the general need for additional housing. It would be in accordance with the Government's objective at Paragraph 59 of the Framework to significantly boost the supply of homes.

Planning balance

17. Whilst I consider there to be no objection to the principle of the redevelopment of the site for residential purposes, the benefit of 3 additional dwellings would be outweighed by the harm to the character of the area and to the living conditions of occupiers of the adjacent bungalows. There would be substantive conflict with Policy DES1 of the DMP and with the development plan as a whole.
18. The appellant contends that the Council cannot demonstrate a five year housing land supply and that the tilted balance at Paragraph 11(d) of the Framework should therefore apply. The Council firmly rejects this contention claiming it has 8.63 years land supply. The dispute relates to the nature of the review of the local plan in 2019 and whether the five year supply calculation should be judged against the standard methodology requirement.
19. It is not necessary for me to formally conclude on this dispute. Even if I were to accept that the tilted balance should apply, the adverse impacts of the proposal in relation to the character and appearance of the area, and especially on the living conditions of occupiers of the bungalows to the north of the site, would significantly and demonstrably outweigh the proposal's benefits when assessed against the policies of the Framework taken as a whole.
20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. There are no material considerations before me to indicate that the decision on the appeal should not be taken in accordance with the development plan.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

Rory MacLeod

INSPECTOR