



Appeal Decision

Site visit made on 30 April 2021

by Euan FS Pearson BA(Hons) BTP FRGS MRICS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2021

Appeal Ref: APP/Q3820/W/20/3262709

**Land to the rear of 98A Three Bridges Road, Three Bridges, Crawley
RH10 1JL**

- 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 Trevor Harman of Barclay Developments Ltd against the decision of Crawley Borough Council.
 - The application Ref CR/2020/0182/FUL dated 20 March 2020, was refused by notice dated 18 May 2020.
 - The development proposed is erection of 2 two-bedroom, two-storey, semi-detached dwellinghouses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on i) trees; ii) the living conditions of occupants and neighbours with regards to privacy; and iii) developer contributions.

Reasons

Trees

3. The appeal site comprises the majority of the rear garden of Nos. 98/98A Three Bridges Road, a sub-divided dwellinghouse within the area subject to The Crawley Borough (Three Bridges Road No. 7) Tree Preservation Order 2000 (TPO). The TPO covers trees of whatever species within that area. The purpose of a TPO is to protect trees in the interests of amenity not as an instrument to prevent development.
4. It is proposed to construct two semi-detached dwellinghouses on the appeal site with access from St Pauls Mews. This, as set out in the Arboricultural Impact Assessment submitted by the appellant, would require the removal of tree S1 and tree group TG1, and would incur upon the root protection area (RPA) of a mature oak (T1) that overhangs from the neighbouring garden at No.96.

5. Group TG1 and T1 form part of the structural planting along this section of Haslett Avenue East (A220 primary route), contributing to the character and appearance of the area, and the approach to the town centre. I consider that removal of any of these would harm visual amenity.
6. The AIA states that the foundations would be constructed using a 'Housedeck' system. Notwithstanding the absence of specific details before me, this is not a 'no dig' method and the RPA of T1 would still be affected, potentially threatening the longevity of T1, a category A specimen of high quality and value.
7. Similarly, the health of T1 would be threatened in the event of persistent demands to prune, as a consequence of the overhanging branches/limbs, becoming unacceptably close to the proposed dwellinghouses. Providing sufficient clearance would also ensure adequate natural light continues to reach both the upstairs window, and the glazed side door on Plot 16.
8. Therefore, I conclude that the development would result in damage/loss of trees thus harming amenity. Accordingly, the proposal conflicts with policies CH2 and CH3(d) of the Crawley Borough Local Plan 2015-2030, 2019 (Local Plan); Part 3 of the Green Infrastructure Supplementary Planning Document 2016; and the National Planning Policy Framework (Framework). Among other things, these require a high quality of design of development, the retention of trees that contribute to amenity and sufficient space for trees to reach maturity.

Living conditions

9. There is mutual overlooking, from upper floor windows, of the rear gardens of neighbouring dwellings at Nos. 90-102 Three Bridges Road, thus impinging on privacy. Some of these gardens are also overlooked from properties in St Pauls Mews. I note from my visit that boundary fencing and planting has been used to improve individual circumstances.
10. The Council states that privacy would be compromised due to the resulting upper floor window-to-window distances between the proposed dwellinghouses and those on the rear elevation of No. 96. The Council requires these to be 21m apart citing Part 3 of the Urban Design Supplementary Planning Document 2016 (Urban Design SPD). I note, however, that this guidance relates to rear extensions, the objective being to 'maintain an acceptable distance'. Parties agree that the minimum distance is 20.1m. North facing windows in the proposed development would not look directly onto the rear windows of No. 96, offset at an angle, limiting views and therefore acceptably distant.
11. Therefore, the proposal complies with Local Plan policy CH3(c) and guidance in the Urban Design SPD. Among other things, these require design of development to provide a good standard of amenity for existing and future occupants of land/buildings.

Developer contributions

12. The Council seeks a commuted sum towards off-site affordable housing provision, mandatory for all residential development proposals, and not intended to make otherwise unacceptable proposals acceptable.

13. The appellant has submitted a unilateral undertaking for the sum of £26,560 index linked. However, there is no calculation of that sum before me for consideration, nor evidence of registration with HM Land Registry, had I, otherwise, been minded to grant planning permission.
14. The reasons for refusal state that no agreement is in place to mitigate for the loss of trees. Notwithstanding this, the Council accepts that the planting of the four trees on the northern boundary between the Plots 15 & 16 and the rear garden of Nos. 98/98A, shown on Drawing D18124_A_1003 Rev P3, would have sufficed.

Other Matters

15. The appellant has referred to previous development proposals and I have taken these into account. Planning decisions are taken on individual merit, therefore, this does not change my conclusions on the specific harm I have identified arising from the appeal proposal. The proposal would contribute to the local housing supply and whilst that would be of benefit, given the small scale of development, that would only be of minimal weight.

Conclusion

16. I have found that the proposal would not have an adverse effect on neighbouring occupants and could also provide a financial contribution towards off-site affordable housing. However, this and the benefits described above, would not outweigh the significant harm I have identified regarding trees.
17. The proposal would not comply with the development plan, as a whole, and there are no material considerations, including the Framework, that outweigh this finding. Therefore, for the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

Euan FS Pearson

INSPECTOR