



Appeal Decision

Site Visit made on 16 August 2021

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Appeal Ref: APP/L3625/W/21/3267441

Rear of 5 Waterhouse Lane, Kingswood, KT20 6EB

- 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 James Draper against the decision of Reigate and Banstead Borough Council.
 - The application Ref 18/02123/F, dated 3 October 2018, was refused by notice dated 22 July 2020.
 - The development proposed is for the demolition of an existing warehouse and the erection of a three-storey building comprising carports, replacement warehouse, refuse store and cycle store and entrance lobby on ground floor, 4 Nos 2 bedroom flats over, on first and second floors.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (The Framework) was published with immediate effect on 20 July 2021. Policies within the revised Framework are material considerations which should be taken into account in decision making. Main parties have been given an opportunity to comment on the new Framework and I have taken into account any subsequent comments received in arriving at my decision.
3. The Council has stated that the Reigate and Banstead Local Plan (2005)(LP) has been revoked, following the adoption of the Development management Plan (2019) (DMP). I have therefore disregarded reference to policies Ho9 and Ho13 of the LP within the Council's Reason for Refusal One. The Council has not identified any new policies, within the DMP, that have since become relevant following this change. Furthermore, the Council has stated that the Local Distinctiveness Design Guide 2004 has been replaced with the Local Character and Distinctiveness Design Guide 2021. I have taken this new guide into account without prejudice to any party.
4. Amended plans have been submitted by the appellant that show a reconfigured ground floor¹ with under-croft parking located under the rear, rather than the side, of the building. This also includes an increased provision of cycle parking. The County Highway Engineer states² that these changes would satisfy their concerns with respect to parking provision and access onto Waterhouse Lane, subject to the imposition of several planning conditions. The Council has not

¹ Revised Plans: 2812/14B and 2812/13B

² Email from the County Highway Engineer 11 August 2021

identified any further design concerns or other commentary with respect to this change. Although parking provision would be reduced, the site is within close proximity to Kingswood Railway Station. It therefore would have good access to sustainable travel modes. Consequently, the revised parking configuration would be unlikely to result in an adverse effect on existing users of the courtyard or on the adjacent highway. As a result, I shall accept these revisions without causing prejudice to any party. Accordingly, reason for refusal No 4 has been suitably addressed and I shall therefore not consider this matter further.

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the area,
- the effect of the proposed building on the living conditions of adjacent neighbours, at 4 and 5 Waterhouse Lane (No's 4 and 5), with respect to outlook, daylight, sunlight and privacy and on the occupier of 6A Waterhouse Lane (No 6A) in regard to outlook, and
- the effect of the proposal on the living conditions of future occupiers with respect to privacy and access to external living space.

Reasons

Character and appearance

6. The Waterhouse Lane parade of commercial units consists of buildings of various styles and heights. The frontage of the parade overlooks open countryside forming a strong sense of spaciousness. The block of 5-8 Waterhouse Lane, including the appeal site, is a three-storey building with a low-profile roof. The rear courtyard includes garage blocks, shipping containers and hard-standing. The space also provides parking for the commercial units and flats above and an access route to neighbouring pockets of car parking behind neighbouring buildings. Whilst the rear courtyards of the parade are functional in arrangement, they are nevertheless relatively open. As a result, the appeal site's courtyard accords with the general sense of spaciousness found in the surrounding area. This is thereby in keeping with the character and appearance of the area.
7. The proposed three-storey building would be perpendicular to the frontage row. It would project into the courtyard by a substantial amount. In this manner it would erode the established sense of spaciousness to the rear. It would fundamentally alter the perception of the rear courtyard and would dominate the space. The two rear projecting elements of 3 and 4 Waterhouse Lane are relatively short and integral to the main building. As such, this neighbouring development has a limited impact on the open area found to the rear of the parade. In contrast, the proposed building would be disconnected from the frontage parade and bears limited resemblance to design cues of the existing building. This would therefore introduce an anomalous element which would dominate the rear elevation of the parade resulting in an awkward juxtaposition of forms.
8. Therefore, whilst being set slightly lower than No's 3-4 and partially within the footprint of the existing warehouse, the scale and overall bulk of the proposal

would dominate the existing open setting of the courtyard. Furthermore, due to its scale, it would be visible from both public and private views which would increase the visual harm of the proposal.

9. As a result, the proposal would have a detrimental and demonstrable impact on the character and appearance of the area. The proposal would not satisfy policy CS4 of the Reigate and Banstead Core Strategy (2014) (CS) or the Council's (2021) Design Guide. These seek development that would be a high-quality design which takes direction from the existing character and reflects local distinctiveness. These policies are generally consistent with the Framework which seeks development to be sympathetic with local character.

Living conditions – existing occupiers

10. The parade includes residential accommodation at No's 4, 5 and 6A at upper levels. Access to the flats of No's 5 and 6A is via a first-floor walkway and staircase from the rear courtyard.
11. The side windows and rear windows of No's 4 and 5 respectively, serve habitable rooms. Side windows of No 4 are east facing. The proposal would be located within close proximity to these windows and would substantially reduce morning to midday sunlight to these windows. Furthermore, due to the short separation distance, the proposal would also demonstrably reduce daylight levels to the neighbouring windows of No's 4 and 5. The proximity would also have a substantially harmful effect on the outlook from these windows due to the depth and height of the proposed development.
12. The proposal includes a kitchen and bathroom window on its front elevation, and two living room windows on its side, these would be located at both first and second floor levels. The proposed windows would provide overt and direct views into habitable rooms of the existing adjacent flats of No 4 and 5. This would result in a demonstrable loss of privacy to the existing occupiers. The proposed front facing kitchen and bathroom windows could be required to be obscurely glazed by planning condition, reducing the harm to No 5. However, the side windows could not be obscured without significant detriment caused to the living conditions of future occupiers. Therefore, without mitigation, this would result in a substantial loss of privacy to occupiers of No 4.
13. Conversely, I do not concur with the Council with respect to its findings of harm to the outlook of No 6A. The separation distance and alignment of the proposal to this neighbouring flat would be sufficient to limit impact. I also do not find that occupiers of No 5 would suffer a significant loss of sunlight due to the orientation of these rear windows being north facing.
14. Nevertheless, the harm found to neighbouring occupiers of No's 4 and 5 would be substantial, affecting daylight and outlook and in addition a loss of sunlight and privacy for No 4. The proposal would therefore not accord with policy DES1 of the DMP. This requires, inter alia, for development to provide an appropriate environment and to not adversely impact on the amenity of existing occupiers by way of overbearing, overshadowing and overlooking. This policy is consistent with the Framework which seeks a high standard of amenity to be achieved for existing and future occupiers.

Living conditions - future occupiers

15. The proposed two-bed flats would be suitable for a range of occupier type, including for small families. Policy DES5 of the DMP seeks adequate outdoor provision to be made and does not differentiate between types of accommodation. The scheme makes no provision for dedicated external recreation space. The Council identifies that the nearest public open space is 0.7kms from the site, with the nearest play area being a distance of 1.6kms. Kingswood Park is also identified as being to the rear of the site, although its walking distance and facilities are not in evidence. These provide moderate access to outside space. However, these would not be readily accessible by future occupiers for day-to-day use, due to their distance from the site. Consequently, such provision would not offset access to on site external space.
16. The harm to the living conditions of future occupiers would be further exacerbated by the provision of habitable rooms that would be substantially overlooked by the occupiers of No 4.
17. As a result, the proposal would provide a poor-quality living environment due to an absence of access to outdoor space and through the provision of insufficient privacy. The proposal would therefore conflict with policies DES1 and DES5 of the DMP. This seeks, among other matters, for development to create an appropriate environment for future occupants and provide no adverse impact with respect to overlooking.

Other Matters

18. I acknowledge that the Council has not raised concerns with respect to noise and disturbance, flooding and contamination. Furthermore, the proposal would no longer result in harm to highway safety following acceptance of the revised plans. However, an absence of harm in these respects can only be considered as neutral factors in the planning balance.

Conclusion

19. The Framework seeks to significantly boost the supply of housing. The proposal would result in the provision of four dwellings on previously developed land. It would be located where there is good access to public transport and to goods and services. The scheme would generate some employment benefits during construction. However, these merits are limited and do not outweigh the substantive harm found to the character and appearance of the area and to living conditions and would conflict with the development plan when taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

B Plenty

INSPECTOR