



Appeal Decision

Site visit made on 15 June 2021

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 OCTOBER 2021

Appeal Ref: APP/M3645/W/20/3265603

16-18 Southview Road, Warlingham CR6 9JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Infinity Homes Group against the decision of Tandridge District Council.
 - The application Ref TA/2020/1327, dated 24 July 2020, was refused by notice dated 6 November 2020.
 - The development proposed is demolition of existing houses, nos. 16 & 18 Southview Road and the erection of two blocks of 14 units comprising 7x3 beds and 7x2 beds with shared under croft car park and street entry level to accommodate 21 spaces with an additional 3 off-street parking and extra 4 spaces within property boundary.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is an outline scheme, with access, layout and scale to be considered at this stage. Appearance and landscaping would be determined at a reserved matters stage. Accordingly, I have determined the appeal on the basis of the matters before me at outline stage.
3. Following the refusal of the proposal at the application stage the appellant submitted a set of revised plans during the appeal process. I have considered whether it would be appropriate to consider the proposal on the basis of the revised plans having regard to the Wheatcroft Principles¹. The revisions to the proposal that would result due to the revised plans would be significant with substantial alterations to the size of the built form which would materially alter the overall shape, scale and mass of the built form, and its subsequent relationship with neighbouring properties and the area generally.
4. I consider that the revised plans would be materially and significantly different to those considered by the Council and consulted upon as part of the application process. The appeal process should not be used to evolve a scheme, and I have determined the proposal on the basis of the plans submitted with the application.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Main Issues

5. The main issues are;

- the effect of the proposal on the character and appearance of the area having regard to protected trees;
- whether the proposal would provide adequate living conditions for future occupiers; and
- the effect of the proposal on ecology.

Reasons

Character and appearance

6. The appeal site sits within a short row of detached chalet style residential dwellings which are nestled into a steep hillside. The topography of the area has resulted in dwellings sitting in large plots which encompass the hillside to the front and rear of the dwellings. The area is heavily wooded which creates a sylvan charm and is experienced very differently to the more urban area the other side of the railway line.
7. The proposal would incorporate a total of 14 units within two blocks which would be accessed from Southview Road, in total the form would incorporate up to four storeys (including the parking). The units would be set close together and with full height flank walls creating a rather uninspired corridor between the two. The appeal site rises steeply from the road, and each dwelling within Southview has a prominent front elevation due to the steep incline. The proposal would sit substantially forward of the existing property at No 20, projecting significantly towards the road. Despite the similarity in ridge height between the proposal and No 20, the mass of the built form would project forward and loom over the street, appearing as a rather menacing development which would dwarf the modest dwellings to either side.
8. In order to accommodate the scale of the development the built form would need to be set into the hillside and a significant level of excavation of the hillside would need to be undertaken. Whilst in principle such an approach of setting the built form into the hillside would not be alien, having regard to the position of the existing dwellings, the appeal scheme would be significantly larger in scale and mass in comparison to its neighbours. The built form of the two units would extend beyond the rears of No 14 and No 20. There is a subtle stagger to the existing building line, however, this in no way would justify the deep incision that the scale of the proposal and its amenity space would make into the wooded hillside. The grain of development would be annihilated by the two blocks, which would be at least twice as deep as either neighbouring dwelling and appear as an ill-conceived block of development within a far more modest and subtle street.
9. Moreover, as the built form would slice through the rear gardens it would encroach aggressively towards the heavily wooded element of the area to the rear of the site. The presence of trees within and to the rear of the site play an important role in creating and sustaining the pleasant sylvan quality of the area. A number of mature trees are based sporadically throughout rear and front gardens along the road, the placement of which reinforces the concept that the built form is set within this wooded landscape. The site is covered by

an area Tree Preservation Order, and a number of trees would need to be removed to accommodate the scale of the development. This would result in a harmful urbanisation of the site and area. Whilst it may be possible to consider a landscaping condition, this is not a matter that is before me at outline stage. On the basis of the effect of the scale and layout of the proposal, I find that the proposal would consume the natural elements of the site that are so fundamental in contributing to its character.

10. I visited several other sites in addition to the appeal site. There are undoubtedly large developments on the other side of the railway line, and in the vicinity of the area. The development at Picton Mount, which is located close to the appeal site, demonstrated a level of spaciousness around it such to avoid the appearance it had been artificially forced into the site, which would be the result of the scheme before me. The remaining sites at Westview Road, Landscape Road and Westhall Road involved developments that were designed and sited to sit more naturally within the street scene. As such, whilst I accept that there are examples of larger schemes in the area, I consider that these schemes respond to their respective sites and individual street scenes. To the contrary, the proposal before me would fail to relate to this sylvan character and achieve a level of good design when considered contextually.
11. I find that the proposal would dominate this quiet and tranquil street scene and introduce an overbearing and alien development which would result in significant harm to the character of the area. It would conflict with Policies DP7 and DP8 of the Tandridge Local Plan: Part 2 – Detailed Policies (the Local Plan) which collectively seek to ensure that development is of a high standard of design that reflects and respects the character of the area and reinforces the need for development to have regard to the topography of the site. I find that the proposal would conflict with Policy CSP18 of the Tandridge District Core Strategy (adopted 2008) (the Core Strategy) and the Trees and Soft Landscaping SPD which amongst other things require development to have regard to important trees and groups of trees in addition to other features that need to be retained.

Living conditions

12. In order to accommodate the development a number of the units would face the rear of the site. Due to the striking change in land levels as the site rises away from the built form the rear bank of the hillside would create an undesirable sense of enclosure for future occupants. The close proximity of the built form to the boundaries would result in the rear elevations being highly visible from the rear gardens of neighbouring gardens, both of which provide access up and into the woods at the rear. As such it would be possible to look directly into the rear of the development from a relatively close distance, and at times from a raised vantage point. This level of overlooking would be unacceptable for future occupiers, posing a credible risk of significant overlooking and loss of privacy.
13. Furthermore, the alleyway proposed between the two blocks would allow for views into habitable rooms of the units on the ground floor. Having regard to the position of the built form close to the rear hillside, future occupiers would have a choice of looking at an overbearing side façade, or out towards the base of a steep incline. As such I consider that the proposal would fail to provide suitable outlook for occupiers of those ground floor units.

14. Some of the amenity space for future occupiers would be provided to the rear of the development, which would be set into the hillside and accessed via a stairwell. Having regard to the mix of units proposed it is possible that residents may have young children, or there may be residents with mobility issues. The layout of the amenity space would be very difficult to access for some residents, which as a result would exclude some residents from being able to use the space comfortably. Having regard to the real need for people to be able to utilise outdoor space as demonstrated during the recent pandemic I consider that the layout of the amenity space would fail to be inclusive for future occupiers.
15. I find that the proposal would fail to provide suitable living conditions for future occupiers having particular regard to issues surrounding privacy and access to amenity space. It would conflict with Policy DP7 of the Local Plan which requires development to provide a satisfactory environment for the occupiers of both the existing and new development, and to ensure that development provides appropriate facilities for individual and communal use including amenity areas and garden areas.

Ecology

16. The Preliminary Ecological Appraisal and Preliminary Roost Assessment (dated July 2020) identified that the habitats which have been outlined for the proposal contain some protected species potential. Furthermore, due to the habitats surrounding the appeal site there is the possibility that bats would use No 16 and No 18 for roosting. Accordingly, further action would be required to ensure that the proposal would not have a negative impact on the local landscape with regards to protected species.
17. Further bat surveys of the two residential dwellings at the site would be necessary, to further assess the presence of bats utilising the buildings as a roost. A minimum of one dusk emergence and one dawn re-entry activity survey (spaced a minimum of two weeks apart) would be required, following good practice guidelines (BCT, 2016), on house number 16. One bat emergence or re-entry survey would also be required on number 18. Should roosting bats be confirmed present in one or more of the buildings, further roost characterisation surveys may then be required.
18. The outcome of such surveys would be a material consideration when assessing the scheme, and I do not consider that such an issue could be addressed by way of a condition. Accordingly, I find that the proposal has not demonstrated that protected species would not be harmed or that appropriate mitigation would be possible. It would therefore conflict with Policies CSP17 of the Core Strategy and DP19 of the Local Plan, which collectively seek to ensure that development protects biodiversity.

Planning Balance

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The adverse impacts arising from the proposal relate to the harmful effect on local character and appearance; its failure to provide adequate living conditions for future occupiers; and its effect on ecology. The proposal would conflict with the development plan when taken as a whole.

20. The Core Strategy was prepared on the basis of the South East Plan, which is no longer relevant, and I consider that the strategic policies relating to the provision of housing are now out of date. However, there are a number of policies that are highly relevant to the proposal. Policies CSP17 of the Core Strategy and DP19 of the Local Plan seek to protect, enhance and expand biodiversity. This reflects the thrust of Framework paragraphs 174 and 180. Policies CSP18 of the Core Strategy and DP7 of the Local Plan require development to be of a high design standard that safeguards amenity and provides a satisfactory living environment. This reflects paragraphs 126 and 130 of the Framework. Policy DP8 of the Local Plan identifies instances where development of residential gardens may be appropriate, its assessment is broadly in line with paragraphs 71 and 124 of the Framework in respect of identifying sites and ensuring appropriate densities.
21. The 2020 Housing Delivery Test results show a measurement of 50% for Tandridge. Therefore, housing development should be subject to the presumption set out in paragraph 11 d) of the National Planning Policy Framework (the Framework). This is because over the previous 3 years the delivery of housing was substantially below the housing requirement. The presumption operates where delivery of less than 75% of the requirement has been achieved. As the percentage for Tandridge is some way under this figure the provision of additional housing in the District is, in general terms, a matter that should be given considerable weight.
22. There is no reason to assume that the proposal could not be delivered quickly subject to the resolution of reserved matters. The contribution of fourteen units of various sizes would make a modest but nevertheless relevant contribution to the overall delivery rates in the District and boosting the supply of housing is a key objective of the Framework. In addition, there would be social and economic benefits associated with building the scheme and subsequent occupation and this attracts moderate weight.
23. However, the proposal would result in significant harm to the character of the area due to its scale which would dominate and blight the leafy and sylvan street. Whilst it may be necessary to provide schemes with higher densities to boost housing, I do not consider that this should justify a proposal incorporating a scheme that would result in such a significant level of harm to the character of the area. Furthermore, the proposal would fail to provide adequate living conditions for future occupiers in creating an oppressive environment. Given that the policies detailed above are broadly consistent with the Framework the harm to the character and appearance of the area; living conditions and ecology are matters of significant weight and I find that the adverse impacts would significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development would not apply.

Conclusion

24. The proposed development would be contrary to the development plan and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, the appeal is dismissed.

J Ayres

INSPECTOR