

Appeal Decision

Site Visit made on 21 September 2021

by David Cliff BA Hons MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal Ref: APP/M3645/W/20/3265906

66 Beechwood Road, Caterham, CR3 6NB

- 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 Redman (Harestone Residential) against the decision of Tandridge District Council.
 - The application Ref TA/2020/776, dated 21 April 2020, was refused by notice dated 4 September 2020.
 - The development proposed is demolition of existing dwellings and the erection of a residential block containing 12 No. flats with parking and cycle store within the lower ground floor.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are
 - i) The effect upon the character and appearance of the area;
 - ii) Whether the proposal would provide for a satisfactory living environment for future residents;
 - iii) The effect upon biodiversity; and
 - iv) The effect upon the living conditions of the occupiers of the neighbouring property at 68A Beechwood Road, with particular regard to sunlight.

Reasons

Character and appearance

3. Beechwood Road is characterised by a mixture of residential properties including detached, semi-detached, terraced dwellings and flats. This creates a mixed visual character to the streetscene as a whole with a variety of building designs. Due to the sloping topography, the houses on the east side of the road tend to be higher and more visually assertive than those on the west side.
4. The front of the proposed building would be sited a similar distance from the front of the site as the existing buildings. Other existing terraced properties on Beechwood Road to the north of the site (from No.68) are located close to the front of their respective plots. The proposal would, however, be of a larger overall bulk and massing than the existing buildings on the site and would appear as significantly more assertive in the streetscene.

5. The existing building heights in the road vary and the main existing building on the site is higher than others on the west side of the road. The proposal would not be higher than this existing building. The building has been designed to include a variation in roof heights with the height reducing adjacent to the lower No.62 Beechwood Road. The two front gables and different sections of the building would add visual interest to its design and would serve to break up its overall massing within the streetscene. The neighbouring property at No.62 is well set back from the street, and the four semi-detached properties beyond this are of limited massing due to their low ground level in relation to the level of the road. The proposed building would appear as being particularly prominent and of considerable massing when viewed from this direction. However, whilst the overall building would be of a greater height, bulk and massing than other properties, this would only detract to a moderate degree from the overall character and appearance of the area.
6. Due to the sloping ground levels, the rear elevation of the proposal would be of greater massing and of one additional storey in comparison to the front elevation. However, its overall visual impact would be limited as it would not be particularly visible from public viewpoints and there would be good separation to the rear of properties on Croydon Road. The large rear car parking area would also contrast with the landscaped rear gardens of surrounding properties. Again, this would not be visually prominent due to its location at the rear, but it would negatively detract from the overall design quality of the scheme, with only limited areas retained for landscaping at the rear.
7. There would be opportunity for new landscaping adjacent to the front of this building, however this would not be of such significance to override the effects outlined above.
8. Overall, the proposal would result in moderate harm to the character and appearance of the area. Whilst the harm would be moderate, it would be contrary to the design aims of Policies DP7 and DP8 of the Local Plan, Policy CSP18 of the Core Strategy and the National Planning Policy Framework ('the Framework').

Living environment for future residents

9. The two proposed ground floor flats would contain bedroom windows which would look directly onto the proposed car parking area with little distance separating the windows from the nearest parking spaces. Even should intervening landscaping be provided in the limited space available, the parking of cars so close to these windows would be likely to result in an obstructed outlook in views from bedrooms for the future occupiers in each case. It would also result in some limited potential for noise and disturbance due to the manoeuvring of vehicles so close to the windows, in addition to noise from the closing of car doors.
10. The living area windows to these two ground floor flats would look onto open amenity areas. It appears to be the intention for the area closest to the living area windows to be used as a private amenity area for at least one of these flats. Reasonable levels of privacy would therefore be likely to be achievable.
11. The proposed access to the communal cycle parking would run next to one ground floor flat, but through the inclusion of appropriate screening as part of the landscaping scheme, no significant impacts should result in terms of

disturbance of privacy. Furthermore, whilst the two rear facing ground floor flats are single aspect, they would be lit by reasonably sized windows and would be likely to receive adequate levels of daylight.

12. Flat 2 has a single bedroom which falls, by approximately 1 sqm, below the minimum floor area of 7.5 sqms. This is the second bedroom to the flat and the remainder of its floor area would be adequate. This therefore only detracts to a limited degree from the overall standard of residential accommodation that would be provided by the scheme.
13. The overall provision of communal on-site amenity space is rather constrained by its location on either side of the more dominant proposed rear parking area, which would limit its attractiveness and usability by residents. Whilst there is alternative nearby outdoor space at Tillingdown Hill, the limitation of provision of readily available onsite amenity space, would not contribute positively to the residential environment of future residents.
14. Overall, I consider that moderate cumulative harm would result from the limitations I have identified in terms of the quality of the residential environment for future residents. This harm would be contrary to Policy DP7 of the Local Plan.

Biodiversity

15. An updated Preliminary Ecological Appraisal (PEA), dated 26 November 2020, has been provided by the appellant in support of the appeal. The updated PEA includes an extended phase 1 habitat survey along with preliminary bat roost assessments for buildings and trees. It concludes that without mitigation there is potential for adverse impacts. In particular, the two existing buildings have high and medium potential respectively for roosting bats.
16. In relation to bats, the updated PEA does not specifically set out mitigation, rather it refers to the previous reptile and bat survey report by Acord Ecology. The report is dated 2017 and is now over four years old. Whilst it found no evidence of bats emerging or re-entering the buildings, this may no longer be the case. It recommends only enhancement measures based on the finding at the time of the lack of evidence of bats within, emerging or re-entering the buildings. It does not set out any measures that would need to be taken should bats be found to be present within the buildings. From the information before me and given the lack of an up-to-date Phase II bat survey, it is not possible to clearly determine the presence or otherwise of protected bats within the buildings at the current time.
17. Should it be the case that bats are utilising either building, the proposed demolition could result in a contravention of the Habitats Regulations in the event that an adequate mitigation strategy is not implemented. There is no such mitigation strategy before me for consideration and there is a reasonable possibility that the proposed demolition works could result in the loss of European protected species.
18. Government guidance advises that planning conditions should not usually be used to ask for ecological surveys because the full impact of a proposal on protected species needs to be considered before planning permission can be granted. There are no exceptional circumstances in this case to justify any such condition.

19. The proposed development would therefore be contrary to Policy DP19 of the Local Plan which states that development affecting protected or Priority species will only be permitted where it can be demonstrated that the species involved will not be harmed or appropriate mitigation measures can be put in place. It would also be contrary to Policy CSP17 of the Core Strategy which seeks to protect biodiversity and provide for its maintenance, enhancement and restoration.
20. There is no specific requirement for biodiversity net gain within Policies DP19 and CSP17, although they do seek to generally provide for biodiversity enhancement. The Framework states that planning decisions should provide net gains for biodiversity¹ and that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity². The appellant has proposed several enhancement measures including measures to accommodate and encourage hedgehog connectivity, native planting along with bat and bird boxes. Whilst such measures could be secured by condition, no details have been provided which demonstrate that measurable improvements for biodiversity are capable of being secured. Given the concerns set out above regarding bats, it is not possible to determine with any confidence in this case whether biodiversity net gain would be able to be achieved. The proposal would therefore not accord with the Framework in this regard.

Neighbouring living conditions

21. The proposed building would project to a modest degree beyond the rear elevation of the neighbouring property at 68A Beechwood Road. The appellant's Daylight and Sunlight Report includes consideration of the effect upon the rear garden area of No.68A, although it does not make clear if the assessment relates to the whole of the rear garden area or just the rear amenity area immediately adjacent to its rear elevation. Drawing No. 2470_106 within the assessment appears to relate to the whole rear garden but the absence of a key makes this drawing unclear.
22. Sunlight received to the rear amenity area of No.68A would currently be partially obstructed by the existing buildings both on the appeal site and No.68A itself. The proposed building would be located to the south of the amenity area and so would have the potential to have some effect on sunlight received at the rear of this neighbouring property. No detailed evidence has been provided by the Council to justify its concerns. However, despite the increased massing and height of the proposed building, its projection beyond the rear elevation of No.68A and its overall massing would not be so significant to result in an unacceptable loss of sunlight or overshadowing to the outdoor amenity area. The effect upon the remainder of the garden area for this neighbouring property would be to an even lesser degree meaning that overall, no unacceptable impact would result upon the levels of sunlight or daylight received by the neighbouring property.
23. The proposed rear car parking would lead to some noise from the manoeuvring of vehicles being audible in the rear gardens of neighbouring residential properties. However, the levels of noise experienced would be limited taking account of the set back of the parking spaces from either side boundary, the

¹ Paragraph 174

² Paragraph 180

long rear gardens of the properties adjacent to the rear boundary of the appeal site and the limited likely intensity of use of the parking area. No significant adverse impacts would therefore arise in terms of noise or disturbance to any neighbouring property.

24. Consequently, the proposal would not result in any significant harm to the living conditions of the occupants of 68A Beechwood Road or any other neighbouring property. It would accord with the amenity aims of Policy DP7 of the Local Plan and the Framework.

Other Matters

25. The main parties agree that the Council is unable to demonstrate a five year supply of deliverable housing sites. The Council states that it can only demonstrate a 1.71 year supply. This represents a very significant shortfall. It also appears that the emerging Tandridge Local Plan is some way off adoption. Whilst recognising that it would involve the demolition of the existing substantially sized dwelling, the proposal would provide for 12 new market dwellings, including smaller units.
26. Whilst this provision would only make a small improvement to the overall housing supply, small sites can still make an important contribution to meeting the area's housing requirement and are often able to be built out relatively quickly. The cumulative effect of the delivery of housing on smaller sites can be important, especially where the Council appears to be struggling to achieve anything near to its five year supply. The proposal would support the Government's objective of significantly boosting the supply of homes. I have therefore given significant weight to the social benefits arising from the provision of 12 new dwellings.
27. An appeal for a scheme for two semi-detached dwellings and a block of three flats was allowed in 2018³. That scheme was materially different to the current application, proposing a different form of development to that now proposed. Furthermore, the permission granted is no longer extant and therefore it cannot be taken into account as a valid fallback position.
28. My attention has been drawn to several recent appeal decisions (including the previous scheme allowed in 2018 for two semi-detached dwellings and a block of 3 flats). I have considered these decisions. Each scheme is subject to its specific merits and circumstances. Whilst other decisions have resulted in certain schemes being granted permission (including where the Council has been unable to demonstrate a five year housing supply) the general approach I have taken is consistent with that of other Inspectors, albeit subject to the planning balance below which takes account of the particular merits of the appeal before me.
29. The Caterham, Chaldon and Whyteleafe Neighbourhood Plan 2018-2033 was adopted in June 2021. Neither party has specifically relied on its policies within their submissions and from the evidence before me, this recently adopted plan does not alter my overall conclusions on the appeal.

³ APP/M3645/W/18/3203334

Planning balance

30. The proposal would result in moderate harm to the character and appearance of the area and moderate harm to the living environment of future residents of the development. It would also result in potential harm to European protected species. In spite of the benefits of the proposal, including the new housing provision, these factors lead to the conclusion that the development would be contrary to the development plan when considered as a whole.
31. The lack of a five year supply of housing means that the 'tilted balance' is applicable in accordance with paragraph 11 of the Framework.
32. The scheme would deliver 12 new dwellings to which I have afforded significant weight in view of the Council's poor housing land supply position. It would also increase the residential density on the site making more efficient use of land for housing in a convenient and accessible location within the urban area.
33. Given the lack of an up to date bat surveys, the proposal would not minimise the impact on biodiversity, nor has it been demonstrated how net biodiversity gains would result. Taking account of the high degree of protection for all bat species, I have given considerable weight to the potential adverse effects upon these protected species. The Framework states⁴ that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
34. In addition, given the additional harm I have identified upon the living conditions of future residents and upon the character and appearance of the area, the proposal would not accord with the Framework's fundamental aim of creating high quality, beautiful and sustainable buildings and places.
35. Overall, the adverse impacts of granting permission (to biodiversity, character and appearance, and the residential living environment) would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore amount to sustainable development as sought by the Framework.

Conclusion

36. The proposed development would be contrary to the development plan and the other material considerations do not suggest that the decision should be taken otherwise than in accordance with the development plan. Consequently, despite the absence of a five year supply of housing land, permission should be refused.
37. Therefore, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR

⁴ Paragraph 180