



Appeal Decision

Site visit made on 5 January 2022

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2022

Appeal Ref: APP/L3625/W/21/3277259

16 Downs Wood and Rear of 37, 39, 41, 43, 45 & 47 Yew Tree Bottom Road, Epsom Downs, KT18 5UH and KT17 3NQ

- 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 Quarterhill Homes Limited against the decision of Reigate and Banstead Borough Council.
 - The application Ref 20/01369/F, dated 2 July 2020, was refused by notice dated 18 March 2021.
 - The development proposed is the demolition of 16 Downs Wood and the erection of 8 dwellings on land to the rear of 37-47 Yew Tree Bottom Road, with associated landscaping and car parking.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of 16 Downs Wood and the erection of 8 dwellings on land to the rear of 37-47 Yew Tree Bottom Road, with associated landscaping and car parking, at 16 Downs Wood and Rear of 37, 39, 41, 43, 45 & 47 Yew Tree Bottom Road, Epsom Downs, KT18 5UH and KT17 3NQ in accordance with the terms of the application Ref 20/01369/F, dated 15 July 2020, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on:
 - i) the character and appearance of the area; and
 - ii) the living conditions of the occupiers of No 35 Yew Tree Bottom Road and Nos 14 and 18 Downs Wood, with particular regard to outlook, sunlight, noise and disturbance.

Reasons

Character and appearance

3. Downs Wood forms part of a wider mature residential area characterised primarily by a mixture of detached bungalows and large 2-storey houses with pitched roofs, some with a catslide form. These dwellings front and are set back from the road in long generous plots with lawns and hardstandings to the frontages. This results in a generally spacious pattern of development although more recent infill developments on former rear garden sites also form part of that pattern in the area. Frontage vegetation and trees along the streets and in rear gardens give the area a verdant appearance.

4. The appeal site is formed from the curtilage of No 16 Downs Wood and parts of the rear gardens of Nos 37 – 47 (odd numbers) Yew Tree Bottom Road. The rear gardens contain a variety of shrubs and trees, particularly to garden boundaries. The site falls from west to east. The proposed development would comprise 2 semi-detached 2-storey houses and 6 detached 3-storey houses, the latter with a room in the roof. Access would be from Downs Wood through the plot of No 16, which would be demolished.
5. Three previous applications for residential development on the appeal site, or much of it, have been refused and dismissed on appeal. The most recent and relevant of these to the proposal before me was for 8 dwellings (APP/L3625/W/18/3241824). The current appeal scheme seeks to address the criticisms of the previous scheme and it differs materially in a number of respects. With two of the proposed dwellings being semi-detached, the number of building footprints is now 7. The scale of the proposed dwellings has been reduced with greater spacing between the units and greater areas of open space to the frontages. The previously proposed crown roofs have been replaced with full pitched and catslide roofs.
6. The cul-de-sac layout would reflect similar developments in the area, including Kenmore Close immediately to the west of the appeal site. The proposed development would result in smaller residual plot sizes for Nos 37 – 47 but they would still be reasonably generous and comparable to those currently existing on Downs Wood.
7. The plot sizes for the proposed dwellings would be smaller than those prevailing in the locality, particularly those for the semi-detached dwellings. However, they would nonetheless be proportionate to the size of the dwellings and so the relationship between the dwellings and their plots would be satisfactory. The increased spacing between the detached dwellings would be generally consistent with the immediate locality. Consequently, the development would broadly reflect the pattern of development in the area and not result in an unacceptable increase in density or loss of the spacious character.
8. The proposed layout includes parking to the front of the proposed dwellings. In this respect the proposals would not accord with the guidance in the Reigate and Banstead Local Distinctiveness Guide Supplementary Planning Document (SPD), which discourages parking and garaging on street frontages in infill development. However, the scheme would comply with the guidance in the SPD in respect of retaining a visual separation between dwellings and the access road being spacious and landscaped. Furthermore, the proposed layout incorporates sufficient space for planting to soften the built development and hard surfacing which could be secured by a condition. I therefore find the proposed layout acceptable.
9. The proposed dwellings would generally be of a similar bulk, scale, mass, form and design to the existing 2-storey dwellings in the area. The semi-detached dwellings would be of similar appearance to the detached dwellings and so integrate well with the scheme. With the landscaping of the access road and the set back of the dwellings from Downs Wood and Garlichill Road the proposed development would not have an unacceptable impact on the street scene of either road.

10. The proposed development would result in the loss of a large number of trees from the appeal site and two Flowering Cherry trees on Downs Wood adjacent to the proposed access. One of the Cherry trees is identified in the appellant's Arboricultural Report as being of moderate quality. However, the other Cherry tree and the trees to be removed are of low quality and trees around the perimeter of the site would be retained, including those identified as being of moderate quality. Protection of these trees during construction could be secured by a condition. New trees and shrubbery could be planted in accordance with landscaping proposals which could also be secured by a condition. Consequently, the loss of trees from within the site and on Downs Wood would not have an unacceptably harmful effect on the overall character and appearance of the area.
11. The original intention was for refuse bins to be collected from the individual dwellings proposed but following comments from the Council's Neighbourhood Services Team (NST) the layout was amended to incorporate a bin collection point alongside the access road. This is the proposal before me and the basis on which the Council determined the application. The proposed collection point would represent a limited area of additional hard surfacing. However, the access road would be sufficiently wide to incorporate the collection point with planting to soften its appearance. The collection point would therefore not result in an unacceptable level of hardstanding nor a cramped layout.
12. I therefore conclude that the proposed development would not be harmful to the character and appearance of the area. Accordingly, in this respect, it would comply with Policies DES1 and DES2 of the Reigate and Banstead Local Plan Development Management Plan (2019) (the DMP) which, amongst other things, set out that new development should be of a high quality design that promotes local distinctiveness and respects local character.

Living conditions

13. The long rear garden of No 35 Yew Tree Bottom Road runs partly adjacent to the eastern boundary of Plot 8 of the proposed development. The evidence before me, including my observations during my site visit, is that the garden is used in its entirety. Towards the end of the garden is a summerhouse, directly opposite which would be the eastern side elevation of the dwelling on Plot 8.
14. The Inspector that determined the most recent previous appeal found that such a relationship on an existing occupier was not common in the area. He concluded that the mass and proximity of the eastern flank wall of the corresponding dwelling in the scheme before him would be overbearing and would overshadow the summerhouse. The Inspector was also concerned about potential overlooking from the first floor windows in the front and rear elevations of the dwelling on Plot 8.
15. However, in the scheme before me the depth of the proposed dwelling on Plot 8 has been reduced, it would be set back further from the boundary and a cat-slide roof on the eastern elevation would result in a lower eaves height. Whilst the dwelling might still result in a limited degree of overshadowing in the late afternoon, with these revisions and the size of the garden at No 35 I find that the dwelling would not be unacceptably overbearing for the users of the garden nor result in an unacceptable loss of sunlight to the summerhouse.

16. Furthermore, with the increased separation distance any loss of privacy from the overlooking of No 35 by the first floor windows in the front and rear elevations of the dwelling on Plot 8 would be acceptable. The proposed window in the eastern side elevation of the proposed dwelling would serve a bathroom and a condition could ensure that this would be obscure-glazed and non-openable below 1.7m above floor height. Control over the future insertion of rooflights or dormer windows could also be secured by a condition. I therefore find the relationship of the proposed dwelling to No 35 to be acceptable.
17. The proposed bin presentation point would be sited close to the boundary with No 18 Downs Wood and opposite the boundary with No 14 Downs Wood. I understand the concerns expressed by the occupiers of these dwellings, but there would be room for planting on both sides of the access road in the vicinity of the presentation point. With other bins from the existing dwellings being emptied at the same time, noise and general disturbance to the occupiers of Nos 14 and 18 when the bins would be due to be emptied would be limited in effect and duration and temporary.
18. Moreover, it would be in the interests of occupiers of the new dwellings not to bring their bins to the presentation point until they are due for collection, to return them to their properties promptly when emptied and to maintain the presentation point in reasonable order. Having regard to the conclusions of the NST I consider the size of the collection point to be adequate.
19. I therefore conclude that the proposed development would not result in unacceptable harm to the living conditions of the occupiers of No 35 Yew Tree Bottom Road in respect of outlook or sunlight nor to those of the occupiers of Nos 14 and 18 Downs Wood through noise or disturbance. Accordingly, in this respect, the development would comply with Policies DES1 and DES2 of the DMP which, among other things, protect the living conditions of the occupiers of existing nearby buildings.

Other Matters

20. I acknowledge the substantial number of objections from local residents to the proposed development. The rear elevations of the dwellings on Plots 1 - 4 would face towards the side elevation of No 3 Kenmore Gardens, which has a bedroom window at first floor level. However, this window would be approximately 23m from the rear-facing windows in the proposed dwellings. With this distance, the depth of the rear gardens of the dwellings and No 3 sitting at a slightly higher level with its other main habitable room windows to its front and rear, there would be no unacceptable loss of privacy for the occupiers of this property either within the house or its garden.
21. The proposed dwellings would be approximately 31m – 42m from the rear elevations of existing dwellings on Downs Wood and approximately 27m – 41m from the rear elevations of existing dwellings on Yew Tree Bottom Road. The flank wall of the dwelling on Plot 1 would be set back from the boundary with No 24 Downs Wood and the dwelling on Plot 8 would be a significant distance from the rear elevations of properties on Garlichill Road. Although there would be changes in the outlook from these existing dwellings, with these distances there would be no unacceptable harm to their occupiers from overlooking, loss of outlook or loss of light. This conclusion is consistent with that of the Inspector that determined the most recent previous appeal.

22. Many concerns have also been raised about parking and highway safety. However, the proposed parking provision is in accordance with the Council's adopted standards so I can reasonably conclude that the proposed development would not lead to significant additional on-street parking. Adequate sight lines could be provided for the access road. I have no firm evidence that access for emergency vehicles would be unsatisfactory.
23. The additional vehicle movements associated with 8 dwellings would not be significant and would not have a severe impact on the highway network nor an unacceptable effect on highway safety. I note that the highway authority has not objected to the scheme subject to the imposition of a number of conditions. Moreover, highway safety has not been a concern of the Inspectors determining the most recent previous appeals for this site.
24. Although the Bat Scoping Report submitted with the application dates from October 2019, it indicates that No 16 has a low potential and the trees on the site have negligible potential to support roosting bats. I am therefore satisfied that there is not a reasonable likelihood of bats being present and that a condition requiring a survey as suggested by the Surrey Wildlife Trust immediately prior to the commencement of the development would provide a sufficient safeguard. Biodiversity enhancements could also be secured by a condition.
25. The proposed access would be spacious with opportunities for landscaping and suitable boundary treatment to either side such that its use would not unacceptably affect the living conditions of the occupiers of Nos 14 or 18. Noise and disturbance during construction would be inevitable but would be temporary and could be mitigated by a Construction Method Statement. Both this and drainage provision could be secured by conditions.
26. I have no firm evidence that there are problems of capacity in local services or that any such problems would be materially exacerbated by the proposed development. From the evidence before me the site is not within or within the setting of a Conservation Area nor is it within the Metropolitan Green Belt. I see no reason why the occupation of this modest residential development should lead to an increase in crime, give rise to unacceptable noise, light or other pollution or have an adverse effect on health.
27. Interested parties refer to Policies BP12 and PMP2 of the adopted Core Planning Strategy and Policies DM1 and DM3 of the Site Development Policies DPD. However, the Council has confirmed (by email dated 17 February 2022) that these are not policies adopted by the Council. They are therefore not relevant to the determination of this appeal. The effect on property values, loss of a private view and conflict with covenants are not planning considerations and are therefore outside the scope of this appeal.
28. None of the other concerns raised in the representations, including the making of amendments to the scheme during the course of the determination of the application, the timing of the application and amendments, disturbance from headlights and winter weather conditions, have been determinative in this appeal.

Conditions

29. In addition to the standard time limit for commencement, the Council has suggested a number of conditions in the event that the appeal is allowed. I have assessed these against paragraph 56 of the Framework, revising them in the interests of consistency and reordered them in accordance with the advice in the Planning Practice Guidance. A condition regarding the approved plans is necessary in the interests of certainty.
30. Details of levels, tree protection and landscaping are necessary to protect the character and appearance of the area. A Construction Method Statement / Construction Transport Management Plan and details of lighting are necessary in the interests of the living conditions of the occupiers of nearby dwellings, the safe and convenient use of the highway and wildlife. A scheme for surface and foul water drainage is necessary to ensure that the site is satisfactorily drained. A bat survey is required to ensure there is no harm to these protected species. These conditions above need to be pre-commencement conditions to ensure that the development is undertaken in a satisfactory manner. The appellant has confirmed agreement to these conditions by email dated 28 February 2022.
31. The provision of measures to encourage and protect wildlife are in the interests of biodiversity. Conditions regarding materials, boundary treatments, refuse collection, obscure glazing and additional first floor windows, dormer windows or rooflights are necessary in the interests of the character and appearance of the area and / or the living conditions of the occupiers of neighbouring properties. The provision of the access and parking / turning area and the closure of redundant sections of the existing access are necessary to ensure and safeguard the safe and convenient use of the highway.
32. The implementation of energy and water efficiency measures and the provision of vehicle charging points are necessary to support the efficient use of resources and minimise carbon emissions. The provision of broadband infrastructure is justified for a high quality electronic communications network.
33. I have not imposed a condition requiring the provision of car ports in place of the proposed double garages, notwithstanding the appellant's agreement to such a condition. From the correspondence provided to me by the appellant the Council's concern appears to be that garages may be used for storage rather than parking. However, the garages would meet the size requirement in Annex 4 of the DMP and the highway authority has raised no objection to the parking provision. I am therefore satisfied that the provision of car ports rather than garages is not necessary to make the development acceptable in planning terms.
34. I do not consider a condition requiring a plan for the management of the bin presentation point area to be necessary as it is reasonable to expect future occupiers of the proposed dwellings to drop off and collect their own bins promptly. Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, contains limitations and conditions to safeguard the living conditions of the occupiers of neighbouring properties. I have therefore not imposed a condition removing national permitted development rights for extensions as there is no clear justification to do so.

Conclusion

35. I have found above that the proposed development would comply with the development plan. There are no material considerations, including the representations from interested parties, that indicate that a decision should be made other than in accordance with the development plan.
36. For this reason, and having regard to all other matters raised, the appeal is allowed.

Martin Small

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan 10978 PL 001
 - Existing Elevations 10978 PL 109
 - Existing Floor Plans 10978 PL 110
 - Proposed Site Layout 10978 PL 002 E
 - Proposed Entrance Driveway Landscaping 10978 PL 120
 - House Types 1 & 2 – Plots 1 & 2 10978 PL 003 B
 - House Type 3A – Plot 3 10978 PL 004 B
 - House Type 3B – Plot 6 10978 PL 005 B
 - House Type 4A – Plot 4 10978 PL 006 B
 - House Type 4B – Plot 7 10978 PL 007 B
 - House Type 5 – Plots 5 & 8 10978 PL 008 B
 - Double Garage 10978 PL 009 A
 - Proposed Site Elevations 10978 PL 010 B
- 3) No development shall take place unless and until full details of both existing and proposed ground levels and the proposed finished ground floor levels of the dwellings hereby approved have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

- 4) No development shall take place including demolition and / or groundworks preparation unless and until a detailed, scaled, finalised Tree Protection Plan (TPP) and the related finalised Arboricultural Method Statement (AMS) have been submitted to and approved in writing by the local planning authority (LPA). These shall include details of the specification and location of exclusion fencing, ground protection and any construction activity that may take place within the Root Protection Areas of trees (RPA) shown to scale on the TPP, including the installation of service routings and location of site offices. The AMS shall also include a pre-commencement meeting, supervisory regime for the implementation of protection works and monitoring with an agreed reporting process to the LPA. All works shall be carried out in strict accordance with the approved details.
- 5) No development shall take place unless and until a scheme for the landscaping of the site including the retention of existing landscape features has been submitted to and approved in writing by the local planning authority. The landscaping scheme shall include details of hard and soft landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities and an implementation and management programme.

All hard and soft landscaping works shall be completed in full accordance with the approved scheme prior to occupation or within the first planting season following completion of the development hereby approved. Any trees, shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or plants of the same size and species.

- 6) No development shall take place, including any works of demolition, unless and until a Construction Method Statement / Construction Transport Management Plan has been submitted to and approved in writing by the local planning authority. The Statement / Plan shall include details of:
- (a) parking for vehicles of site personnel, operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) storage of plant and materials;
 - (d) measures to prevent the deposit of materials on the highway;
 - (e) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused; and
 - (f) delivery, demolition and construction hours.

The approved Construction Method Statement / Construction Transport Management Plan shall be adhered to throughout the construction period for the development.

- 7) No development shall take place unless and until details of external lighting, including proposed operating times and details of shielding to

control light spill, have been submitted to and approved in writing by the local planning authority, and there shall be no variance in external lighting other than as approved.

- 8) No development shall take place unless and until a scheme for the disposal of foul and surface water drainage from the site has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved prior to the occupation of the dwellings hereby approved.
- 9) Immediately prior to commencement of development, an endoscope bat survey shall be undertaken on the building No 16 Downs Wood by a suitably qualified ecologist. Details of the endoscope bat survey and results shall be submitted to and approved in writing by the local planning authority. In the event that bats, or evidence of bats, are found on site during works, all work must cease and the Applicant must contact Natural England with regards to obtaining a licence to undertake the works. In these circumstances a suitable course of action shall be submitted to and approved in writing by the local planning authority to prevent harm to this species and works shall be undertaken in accordance with the approved course of action.
- 10) No development above ground level shall commence until a scheme of biodiversity enhancement measures has been submitted to and approved in writing by the local planning authority. This should be designed alongside the soft landscaping proposals for the site. The biodiversity enhancement measures approved shall be carried out before first occupation of the development hereby approved in strict accordance with these details or as otherwise agreed in writing by the local planning authority and subsequently retained as such.
- 11) No development above ground level shall take place unless and until written details of the materials to be used in the construction of the external surfaces, including fenestration and roofs, of the dwellings hereby approved have been submitted to and approved in writing by the local planning authority, and the development shall be carried out in accordance with the approved details.
- 12) The development hereby approved shall not be first occupied unless and until boundary treatments have been completed in accordance with a plan indicating the positions, design, materials and type of boundary treatment to be erected, including provisions for wildlife access, that has been submitted to and approved in writing by the local planning authority.
- 13) Notwithstanding condition 2, the development hereby approved shall not be first occupied unless and until the proposed vehicular bellmouth access to Downs Wood has been constructed in accordance with a revised scheme to be submitted to and approved in writing by the local planning authority.

- 14) The development hereby approved shall not be first occupied unless and until redundant sections of the existing access have been permanently closed and any kerbs, verge and footway, fully reinstated.
- 15) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained for their designated purposes.
- 16) The development hereby approved shall not be first occupied unless and until a refuse collection point has been provided within the site, in accordance with the approved plan (Proposed Site Layout 10978 PL 002 E). The collection point shall thereafter be retained for this purpose.
- 17) The development hereby approved shall not be first occupied unless and until each of the proposed dwellings have been provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted to and approved in writing by the local planning authority and thereafter retained to the satisfaction of the local planning authority.
- 18) The development hereby approved shall not be first occupied unless and until an Energy and Water Efficiency Statement has been submitted to and approved in writing by the local planning authority. The Statement shall detail how the development will:
 - a) ensure that the potential water consumption by occupants of each new dwelling does not exceed 110 litres per person per day; and
 - b) achieve not less than a 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) as defined in Part L1A of the 2013 Building Regulations.

The development shall be carried out in accordance with the approved details and any measures specific to an individual dwelling(s) shall be implemented, installed and operational prior to its occupation and thereafter retained.

- 19) The development hereby approved shall not be first occupied unless and until all dwellings within the development have been provided with the necessary infrastructure to facilitate connection to a high speed broadband. Unless otherwise agreed in writing with the local planning authority, this shall include as a minimum:
 - a) a broadband connection accessed directly from the nearest exchange or cabinet; and
 - b) cabling and associated installations which enable easy access for future repair, replacement or upgrading.

- 20) The first floor windows in the side elevations of the dwellings hereby approved shall be glazed with obscured glass which shall be fixed shut, apart from a top hung opening fanlight whose cill height shall not be less than 1.7 metres above internal floor level and shall be maintained as such at all times.
- 21) Notwithstanding the provisions of Classes A, B and C of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, (or any Order revoking and re-enacting that Order with or without modification), no first floor windows, dormer windows or rooflights other than those expressly authorised by this permission shall be inserted into any of the dwellings hereby approved.

End of Schedule