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# Appeal Decision

Site visit made on 24 August 2022

**by A Price BSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 September 2022**

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**Appeal Ref: APP/C3620/W/21/3288915**

**17 Barnett Close, Leatherhead KT22 7DW**

- 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 Parker, Bray against the decision of Mole Valley District Council.
  - The application Ref MO/2021/1137/PLA, dated 16 June 2021, was refused by notice dated 11 August 2021.
  - The development proposed is described on the application form as the erection of 4No new two-storey terraced dwellinghouses (2No three-bedroom houses and 2No two-bedroom houses) with associated access and soft and hard landscaping.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. An emerging Local Plan<sup>1</sup> is currently at examination and as such may only be accorded limited weight.

## Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupants of neighbouring 17A Barnett Close, with particular regard to overlooking.

## Reasons

4. The appeal site comprises a parcel of undeveloped land currently accessed from Barnett Close. Residential properties surround the site, with 17 Barnett Close to the south and 17A Barnett Close to the south-west. Only the living conditions of the occupants of No 17A are in dispute.
5. The proposed development would introduce built form where this does not currently exist. This would include several first-floor level windows within the rear and side elevations of the proposed dwellings. The rear of the proposed dwellings to the eastern part of the site, namely Plots 1 and 2, would be angled towards the adjoining dwelling, No 17A. The east-facing elevation of No 17A features a window. Plots 3 and 4 would be angled towards the rear garden of No 17A.
6. At present, the occupants of No 17A benefit from privacy from the east due to the undeveloped nature of the appeal site. The proposed development would

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<sup>1</sup> Mole Valley Local Plan 2020-2037

allow views from upper floor windows directly towards No 17A, including the window in its east elevation. As such, and irrespective of the precise separation distances between the site and proposed development, which vary from plot to plot, the occupants of No 17A would experience a loss or privacy as a result of the proposed development.

7. I acknowledge that a number of first floor windows serving both circulation space and bedrooms would be fitted with obscured glass, feature spandrels or 'twist and turn' opening elements. I also note efforts to reorganise the internal layout of the proposed units since the previous proposal<sup>2</sup> to move bedrooms away from the rear elevation, including within setbacks. However, a number of first floor windows serving habitable rooms, namely bedrooms, would still be clear glazed.
8. I also note the intervening planting along the boundary of the site, both existing and proposed. Whilst this may act as a screen at present, particularly during the summer months, planting and boundary features cannot be relied on in perpetuity to give the same level of screening as at present. Moreover, I have no substantive evidence before me to confirm that the rear garden of No 17A would be used any less in the winter months when landscaping is at its most bare, as contended.
9. Whilst noting the design changes since the previous planning submission at this site, and the mitigation measures proposed to limit overlooking, I find that there would be harm to the living conditions of the occupants of No 17A.
10. In conclusion, the proposed development would harm the living conditions of the occupants of neighbouring No 17A, with particular regard to overlooking, contrary to the relevant provisions of Policy ENV22 of the Mole Valley Local Plan (2000). This policy, amongst other things, seeks to protect the living conditions of the occupiers of neighbouring properties. This is in a similar vein to the National Planning Policy Framework (the Framework) which seeks high standards of amenity. Similarly, the proposed development would conflict with the approach in Policy EN4(s) of the emerging Local Plan, which seeks to achieve similar aims as the relevant provisions of the development plan set out above.

## **Other Matters**

11. The submitted evidence indicates that the Council cannot demonstrate a five-year housing land supply. As such, and noting the Government's objective of significantly boosting the supply of homes, the provisions of Framework paragraph 11.d are engaged. This sets out that where the policies which are most important for determining the application are out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
12. Following assessment, there are no policies in the Framework relevant to the site which protect areas or assets of particular importance, and which provide a

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<sup>2</sup> Appeal reference APP/C3620/W/20/3250823; Application reference MO/2019/1673

clear reason for refusal. As such, it is necessary to apply Framework paragraph 11.d(ii).

13. The proposed development would provide a contribution of 4 dwellings to housing supply in an area with an acknowledged lack of future provision. There, too, would be some other social and economic benefits of the proposed development, including in supporting employment during construction and the bringing of trade to nearby services and facilities. I note that the site is also located in an accessible position near to various local services, facilities and employment and that it would utilise a small site. However, these benefits and the contribution to housing supply in the district would inevitably be relatively limited due to the overall scale of the development proposed. Accordingly, they would not outweigh the harm that I have identified above and the resulting conflict with the development plan.
14. I note the appellant's comments in respect of the proposed development being situated in a sustainable location, respecting neighbours' living conditions away from No 17A, promoting a range of housing types, adhering to various other planning policy objectives including the principle of development, improving biodiversity and securing sustainable energy efficient design and construction. I also note that the site is not designated, and the surrounding area is of a varied character and appearance. I further note that there is no dispute in respect of design, materials, layout, internal space standards, drainage, parking, refuse storage or affordable housing.
15. Nevertheless, neither these matters nor the benefits associated with the scheme change my conclusion on the main issue or outweigh the harm that I have identified and the conflict with the development plan. Neither the support in the development plan, nor Framework, for new housing is at the expense of ensuring good design, and there is no indication that similar benefits could not be achieved via an alternative (and less harmful) scheme.

## **Conclusion**

16. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

*A Price*

INSPECTOR