



Appeal Decision

Site visit made on 21 September 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2022

Appeal Ref: APP/L3625/W/21/3286824

38 Alma Road, Reigate RH2 0DH

- 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 Emmerton Developments C/O WS Planning & Architecture against the decision of Reigate & Banstead Borough Council.
 - The application Ref 21/00546/F, dated 3 March 2021, was refused by notice dated 3 September 2021.
 - The development proposed is Erection of a pair of semi-detached dwellings with associated parking and landscaping following the demolition of the existing garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council did not refuse planning permission on the grounds of flood risk. However, having regard to the evidence before me, including the views of interested parties, and recent changes to the Planning Practice Guidance (the PPG), I have sought the Council's and the appellant's views in respect of this matter. I have taken these into account in determining this appeal, and this is reflected in my setting out of the main issues below.
3. The Council's reason for refusal alleges harm to Alma Road and Raglan Road Residential Area of Special Character (the RASC) contrary to local policies. However, its appeal statement refers to the character and appearance of the wider area and conflicts with the National Planning Policy Framework (2021) (the Framework). The appellant's evidence refers to the area beyond the RASC and the policies of the Framework. I have had regard to this evidence in setting out the main issues below and in my reasoning.

Main Issues

4. The main issues are:
 - whether or not the proposed development is compliant with policies in respect of flood risk; and,
 - the effect of the proposed development upon the character and appearance of the area including the RASC.

Reasons

Flood Risk

5. The submitted Flood Risk Assessment (FRA) shows that based upon the Environment Agency Surface Water Flood Map (SWFM) parts of the appeal site are located within areas of high, medium and low risk of surface water flooding. The area of highest risk appears to be on an area of retained vegetation only. However, from the SWFM it appears that a small part of the footprint of a dwelling, part of the driveways, gardens close to the dwellings and some of the access road would be in areas at medium risk. There is no evidence the SWFM is not correct.
6. Paragraph 159 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing it away from areas at highest risk, whether existing or in the future. Paragraph 161 requires the application of a sequential approach to the location of development taking account of the potential and future risk of all sources of flooding, to avoid, where possible, flood risk to people and property. The proposal would result in two new dwellings and new occupiers living in an area at medium risk of surface water flooding, increasing the risk of flooding to people and property.
7. Paragraph 162 of the Framework states development should not be permitted if there are reasonably available sites appropriate for the development in areas with a lower risk of flooding. The sequential test aims to steer development to areas with the lowest risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding. If it is not possible for a development to be located in areas with a lower risk, the exception test may have to be applied (paragraph 163). This approach is consistent with Policy CCF2 of the Reigate and Banstead Development Management Plan (2019) (the DMP).
8. Paragraph 7-023-20220825 of the PPG advises that the sequential approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding. Although the FRA states the houses would be developed in an area at low and very low risk, this is not what is shown on the SWFM. The development would be on land at medium risk of surface water flooding, so the sequential test is required.
9. No sequential test has been provided. That the flood depth may be no more than 300mm in the medium risk scenario does not mean it is not in an area of medium flood risk on the SWFM. The Council deemed that not requiring a sequential test was proportionate based upon the evidence before it. However, the PPG (7-023-20220825) advises that even if a flood risk assessment shows a development can be made safe without increasing risk elsewhere, the sequential test still needs to be satisfied.
10. That the site lies within the lowest probability of river and sea flooding, is at negligible risk of groundwater flooding, there are no recorded incidents of sewer surcharge, is at minimal risk of reservoir flooding, does not obviate the need for the sequential test. Although it is suggested there could be a future drainage betterment, the evidence does not demonstrate the appeal scheme would be removed from an area at medium risk of flooding, or how this would

be achieved in the design. Matters such as flood resistant design measures are matters to be dealt with after the sequential test has been passed. The evidence does not demonstrate there are no other appropriate sites reasonably available in areas with a lower flood risk. Consequently, the sequential test is not satisfied.

11. For the reasons set out above the proposed development conflicts with the aims of Policy CCF2 of the DMP which requires that proposals must avoid areas at risk of flooding where possible and prioritise development in areas with the lowest risk of flooding. The development also conflicts with paragraphs 159 and 162 of the Framework, and paragraph 7-023-20220825 of the PPG, the relevant provisions of which I have set out above.

Character and appearance

12. Paragraph 5.11 of the Local Character & Distinctiveness Design Guide Supplementary Planning Document (2021) (the SPD) identifies RASCs as generally having a low density layout set within heavily wooded areas. This RASC is characterised by relatively low density dwellings of a variety of designs, ages and materials, within generous plots with trees and hedgerows. To the north the site neighbouring dwellings on Beverley Heights are not all within the RASC. However, their spacing, plot size, and landscape features has similarities to the character and appearance of the RASC.
13. The appeal site includes a side access, garage and part of the large rear garden of No 38 Alma Road, with a variety of mature and younger trees and hedgerows, set within grassland. While not in keeping with the regular linear pattern of development in much of the RASC, its spacious and verdant character makes a positive contribution to the RASC and the area. This is most discernible from and between some surrounding properties.
14. The new dwellings would be aligned with those to the north and the south of them. The part 1.5 and part 2.5 storey heights, limited depths, broken-up rooflines and massing, setbacks, surrounding land levels and buildings, retained trees and landscaping, and new landscaping that could be secured by means of a suitably worded planning condition, means the dwellings would be set well within well-landscaped plots. This is typical of those I saw in the area. Therefore, while the enclosure of the gap would be visible, it would not be out of keeping with the character and appearance of the RASC and the area.
15. While there are relatively few semi-detached dwellings within the visual context of the appeal site, the host dwelling is semi-detached. Given its frontage position it is a strong part of the immediate visual context within which the appeal site is viewed. There are various examples of backland development in the wider area. The proposed dwelling heights with gable and hipped roof features and the massing would not appear markedly greater than Nos 38 and 40, or over-dominant, and would be softened by their landscape setting and further planting. Their design appearance would be in keeping with the host dwelling and incorporate aspects of features and materials in the area. In these regards the proposed development would not be out of keeping with or harmful to the character and appearance of the RASC or the area.
16. The dwellings would be within relatively wide plots with a good degree of spacing to the boundaries. They would have similar front spacing to the site boundary as some of the front gardens in this part of the RASC such as Nos 38

- and 40 Alma Road, and some on Beverley Heights. The dwellings would be set away from neighbouring dwellings by a significant distance. Therefore, I do not regard the front and side spacings to be either cramped, out of keeping, or harmful to the character and appearance of the RASC or the wider area.
17. Rear garden depths would be less than many within the RASC, but not all. From what I saw some properties on Sheridan Drive, Nos 29 and 33 Alma Road and No 1 Beverley Heights have similar rear garden depths. I am informed that recently constructed properties at 13 Beverley Heights have shallower rear gardens. Moreover, the rear of plot position, distance to other dwellings, and existing mature and proposed landscaping would mean their depth would have limited discernibility. Therefore, the rear garden depths would not be harmful to or out of keeping with the RASC or the area.
18. The proposed dwelling density would be similar to those in Sheridan Drive and only a limited amount more than some in the vicinity, so would not be out of keeping with the surrounds. The cumulative proportion of development footprint as a whole would appear a limited amount greater than many I saw. However, the rear plot position behind neighbouring dwellings and existing and proposed landscaping means that there would be limited visibility of this. It would have limited visibility from some surrounding dwellings and highways. Therefore, the amount of built development would not appear over-developed or harmful to the character and appearance of the RASC or the area.
19. Some interested parties are concerned that this development would set a precedent. Each application must be considered on its own merits having regard to the character and appearance of its surrounds. The particular situation of this appeal site within a large irregular back garden, its backland location and the alignment of surrounding properties, does not appear directly comparable to other situations I was able to see. Furthermore, as I have found the development would not be harmful to character and appearance for the reasons set out, I see no reason why my conclusions would result in other harmful development.
20. For the reasons set out above, the proposed development would be in keeping with and would not be harmful to the character and appearance of the RASC and the area. Therefore, it would not conflict with Policies DES1 and DES3 of the DMP. In combination and amongst other things these require development promotes and reinforces local distinctiveness, respects the character of the surrounding area, including positive characteristics of neighbourhoods and the street scene, and the height, depth, elevations, scale and massing respects neighbouring buildings and the RASC. The design guidance in section 6.4 of the SPD has similar objectives. I do not find a conflict with paragraph 130c) of the Framework insofar as this requires developments are sympathetic to local character including the surrounding built environment and landscape setting.

Other Matters

21. Both parties have made reference to previous appeal decision Ref. APP/L3625/W/18/3205366, at the appeal site, with differing views upon whether the appellant has addressed the reasons why that appeal was dismissed. While I have had noted the Inspector's findings on that proposal, they are not binding on me. That development is not the same as the appeal scheme before me, which I have considered on its own merits and impacts.

Planning Balance

22. The proposed development would result in a more efficient use of land, provide a moderate temporary economic benefit during design and construction and a modest ongoing spend in the local economy once occupied. As a small and medium size site it could be built out relatively quickly. Even if the housing supply position was acute, the provision of the two dwellings would make a small contribution to supply. Subject to the imposition of suitably worded planning conditions to secure biodiversity enhancements, there could be an overall limited benefit to biodiversity, attracting limited weight in favour of the scheme. Based upon the evidence before me, any overall flood and drainage benefits are likely to be limited, attracting limited weight in favour of the scheme. Overall, I attribute the benefits advanced in favour of the proposed development moderate weight.
23. The Arboricultural Implications Report explains that some but not all trees on the site are covered by Tree Preservation Orders. Most individual and groups of trees on the site would be retained. Trees to be removed are in categories C and U with some having significant defects. The Council has taken into consideration the views of its specialist arboricultural officer and does not object upon arboricultural grounds. Based upon the evidence before me, I see no reason to disagree. Having regard to the arboricultural and landscape evidence before me, this is a neutral matter in the balance.
24. I have found the proposal would not be harmful to the character and appearance of the area. However, I do not consider that it would result in an overall visual benefit. Therefore, I consider the compliance with policies in respect of such matters is a neutral factor in the planning balance. Were I to agree the proposed development is compliant with highway safety, access and parking standards and policies this would be a neutral matter in the planning balance. Compliance with policies in respect of matters such as the living conditions of neighbouring and future occupiers, accessibility, some aspects of site drainage, refuse and recycling storage, and resource and energy efficiency, would also be neutral matters in the balance.
25. However, the proposed development conflicts with the aims of policies in the development plan and the policies of the Framework in respect of flooding and has not passed the sequential test. This is a matter that attracts significant weight against the scheme. Therefore, the policy compliance and the benefits of the scheme do not outweigh the harm from the development. Therefore, planning permission should be refused.

Conclusion

26. The proposed development would conflict with the policies of the development plan and the Framework read as a whole. There are no material considerations that indicate the application should be determined other than in accordance with the development plan and the Framework. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR