



# Appeal Decision

Site visit made on 21 September 2022

**by Rachael Pipkin BA (Hons) MPhil MRTPI**

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

**Decision date: 21 October 2022**

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**Appeal Ref: APP/L3625/W/21/3271345**

**23-33 Great Tattenhams, Epsom Downs KT18 5RF**

- 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 Portdevon Holdings LLP against the decision of Reigate and Banstead Borough Council.
  - The application Ref 20/01575/OUT, dated 22 July 2020, was refused by notice dated 12 November 2020.
  - The development proposed is demolition of existing buildings and structures and replacement with a new residential development which includes soft and hard landscaping, car and cycle parking provision and refuse and recycling facilities.
  - This decision supersedes that issued on 27 January 2022. That decision on the appeal was quashed by order of the High Court.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The original application was made in outline with access, appearance, layout and scale to be determined at this stage. A Landscape Strategy Plan was submitted and subsequently revised as part of the appeal. However, the submissions indicate that matters in relation to landscaping are reserved for future determination. I have had regard to the submitted landscape plans but have regarded these drawings as indicative.
3. During the course of the appeal, the appellant submitted a revised bin store design. It is evident that this drawing has been seen by interested parties as comments have been submitted by the adjoining occupier at 21 Great Tattenhams (No 21). I am therefore satisfied that the interests of third parties would not be prejudiced if I were to take this revision into account. Furthermore, the nature of the revisions would not be so significant as to materially alter the proposal. I have therefore proceeded to take this into account in my decision.
4. The reasons for refusal included housing mix, surface water flooding risk and the absence of a legal agreement to secure contributions towards affordable housing. As part of the appeal, further information was submitted in relation to these matters and the Council has confirmed that it no longer objects to the scheme on these grounds.
5. The Council also refused the scheme on the grounds of harm to the living conditions of No 21 with regard to its overbearing impact and noise and disturbance arising from the proposed rear parking area and communal areas

adjacent to No 21's garden. The appellant submitted a noise survey which confirmed that subject to adequate mitigation along the boundary, noise would be within acceptable limits. The Council confirmed this addressed that matter within its reason for refusal. I have proceeded to deal with the appeal on this basis.

### **Main Issues**

6. The main issues are the effect of the proposed development on:
- the character and appearance of the area; and
  - the living conditions of the occupiers of 21 Great Tattenhams, with particular regard to outlook and a sense of enclosure.

### **Reasons**

#### *Character and appearance*

7. Great Tattenhams is a long, suburban residential street. The overriding character of development along this part of the street is of bungalows set back from the road behind front gardens and driveways and a grass verge. Some have roof extensions and dormers. Despite variations in design, the height of buildings provides a degree of uniformity whilst the set back and the limited height of dwellings contributes to a sense of space and openness along the road.
8. Properties benefit from relatively long rear gardens, bounded at the rear by mature vegetation and trees which provide a verdant backdrop to development on the southern side of the road. Due to the topography, the appeal site and development on the south side of the road is in an elevated position in comparison to that opposite.
9. The appeal site itself is formed of six bungalows and their gardens. The proposed development would redevelop the site to provide four detached two-storey blocks of flats with some accommodation at third floor within the roof. These would be set back from the road behind a front garden with a central driveway providing access to the rear where there would be a substantial area of surface parking. Each block of flats would have an area of communal garden space to the rear.
10. Due to their height, depth and width, the proposed blocks of flats would appear much bulkier than the modest low-rise bungalows which characterise development along both sides of the road. In this context they would appear out of scale and incongruous with their surroundings, principally when viewed from the east and opposite, where they would be particularly prominent and visually overbearing due to the elevated position of the appeal site.
11. Block D would be adjacent to No 21. It has been designed with a catslide roof to maintain a low eaves height close to this shared boundary. This would help to provide a transition between the more substantial two-storey form of the proposal and the existing single-storey development along the road. However, each of the proposed blocks would feature substantial crown roofs which would significantly increase their bulk. This would be particularly visible on Block D where the substantial catslide roof and the flat roof to the crown would be

- visually prominent due to the diminutive form of the adjacent property and the proposal to remove much of the existing vegetation along this boundary.
12. I appreciate that some landscaping is proposed and would form the basis of any reserved matters application. However, the gap between Block D and No 21 is very limited and would, in my view, provide limited space for any meaningful planting.
  13. There is some variation in building types within the locality, including along Chapel Way and Shawley Way as well as further to the west along Great Tattenhams where there are some two-storey properties. Most relevant in the context of this appeal is a recent development on the corner of Great Tattenhams and Chapel Way which adjoins the appeal site. This comprises three apartment blocks, predominantly two-storey with Chapel House, at the corner of the site, featuring a three-storey turreted tower. Abbey House would be adjacent to proposed Block A.
  14. This adjacent development is a much taller and bulkier form of development than the characteristic low rise. It is prominent in views looking east along Great Tattenhams due to its height and corner position but less visible in other views due to the presence of large trees within its front garden. This development appears somewhat anomalous within the context of the low rise development along Great Tattenhams but this is mitigated due to its corner position, which lends itself to a more substantial form of development, and the screening provided by the trees. Even during winter months when these trees would have lost their leaves, they are of a substantial size and would still provide a filtered view of the development.
  15. The appeal proposal would similarly be two-storey with roof level accommodation. However, in comparison to the adjacent development, the appeal proposal would be significantly larger, with each block occupying a larger footprint and extending a greater depth into the site. Whilst the individual blocks would be staggered and set back behind a front garden, in contrast to the nearest comparable development, Abbey House, they would be both closer to the site frontage and significantly wider. This would emphasise the large scale of the blocks, making them appear dominant within the street scene.
  16. Block A would incorporate a two-storey 'tower feature' with a pyramidal roofed element, described as being similar to that of Chapel House. Whilst it has been argued that it would provide a 'bookend' to the development, the reason for this is unclear given the presence of Abbey House next door. This design simply adds to the bulk of the proposed development, further adding to its incongruity and prominence within the streetscene.
  17. The blocks would be separated from each other by a gap indicated to be around 2m wide with the central access providing a greater separation. Given the height and width of the buildings, and despite the use of hipped roofs intended to provide increased space and a sense of separation, the proposed development would appear less spacious than surrounding development, creating a sense of enclosure of the street that would detract from its open character.
  18. Whilst the blocks would not extend significant further back into the site than the existing bungalows, they would extend further forward. They would occupy

a greater footprint and would be significantly higher than the existing development, which would be visible, particularly along the central access and the boundary with No 21.

19. The scale and bulk of the blocks and the limited space around them would make the development appear cramped within the plot. As the appeal site does not benefit from the same degree of screening by mature trees as the neighbouring development, this would be highly prominent within the streetscene. This would significantly detract from the character and appearance of the area.
20. I have been referred to a recently approved scheme for three houses on land to the rear of 41-43 Great Tattenhams<sup>1</sup> which would be similarly spaced to the proposed development. However, that scheme is for three detached chalet bungalows with no street frontage and therefore of an entirely different nature to the proposal before me. It is therefore in a different situation and is not directly comparable to the appeal scheme.
21. The car parking has been positioned to the rear of the site where it would not dominate. This would accord with the Reigate and Banstead Local Character & Distinctiveness Design Guide Supplementary Planning Document 2021 (the SPD) which specifically refers to the harm arising from parking which dominates the street frontage. It would also be not dissimilar to the car parking arrangements for the adjacent development.
22. However, due to the scale of development, the amount of space required for parking is extensive and dominates the rear of the site where it appears disproportionate in comparison to the modest areas of communal gardens. Notwithstanding that this garden space in combination with private balconies has been found by the Council to meet amenity space standards, this would be out of character with the established pattern of development locally where properties benefit from generously sized gardens.
23. The proposal includes four detached bin store structures adjacent to the front boundary of the site. Such structures are not a characteristic feature of Great Tattenhams and would appear visually intrusive and would further erode the open character along the street. Landscaping could help to soften their appearance, nevertheless they would remain prominent features within the front garden area. It is noted that there is a bin store at the front of Chapel House. This is very prominent within the front garden and detracts from the overall appearance of this development. It does not therefore justify the provision of any such structures in the appeal scheme.
24. My attention has been drawn to an allowed appeal<sup>2</sup> at 130-138 Great Tattenhams where permission was granted for 34 retirement apartments. This has now been largely completed and whilst I agree that it is both a taller and bulkier building than neighbouring development, it lies at a lower level and therefore appears compatible with the prevailing form of development along this stretch of the road. The appeal site would not have a similar relationship with surrounding development, particularly that to the east. This approved scheme does not lead me to a different conclusion in respect of the proposal before me.

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<sup>1</sup> Council Ref: 18/00940/F

<sup>2</sup> APP/L3625/W/18/3199890

25. Policy DES2 of the Reigate and Banstead Local Plan Development Management Plan 2019 (the DMP) is concerned with development of residential garden land. The appellant disputes that this policy should be applied and has provided a number of examples where the Council has not applied Policy DES2 for proposals involving the redevelopment of existing dwellings.
26. My reading of Policy DES2 is not that it prevents garden land development nor that it only applies to back gardens, rather that it requires such development to meet certain criteria in relation to the design and quality of the development, including to avoid harm to the character and appearance of the area.
27. Given that the appeal site is formed of six dwellings and their gardens, I consider that Policy DES2 is directly relevant in this case. Whilst I have noted the examples of other developments for redevelopment of dwellings and their gardens where the Council did not apply the policy, that does not lead me to conclude that the policy should not be applied in this case.
28. The Council has not objected to the principle of redevelopment of the site as asserted by the appellant. There are a number of examples where permission has been granted for garden land development near to the appeal site which have been highlighted to me. These include at 10 West Drive and land to the rear of 9-12 West Drive<sup>3</sup>, 136-140 Brighton Road, Burgh Heath<sup>4</sup> as well as land to the rear of 41-43 Great Tattenhams. Whilst these evidence the Council's in principle acceptance of garden land development, this does not automatically make the appeal scheme acceptable as each scheme has to be determined on its own merits which the Council, and subsequently, I, have done.
29. I recognise that I have reached a different conclusion in respect of the degree of harm to the character and appearance of the area to the Inspector who dealt with the earlier, quashed appeal decision. This is a matter of planning judgement for the decision maker and I have set out why I have come to the conclusion that I have.
30. For the reasons set out above, I do not concur this would result in a pattern of development characteristic of the locality given there would be an extensive area of surface car parking and modest areas of rear garden. Whilst similar in height to the adjacent Abbey House, the proposal would be much larger and visually prominent. It would also be viewed in the context of the predominantly low rise development that characterises in the immediate area.
31. The appeal proposal would not respect the character of the surrounding area and would not contribute to local distinctiveness as it would fail to reflect those features that contribute to this, including the open and spacious character of the area. Whilst there is no requirement to replicate existing development, the proposal, due to its large scale and bulk, would fail to respect the local context.
32. I conclude that the proposed development would cause significant harm to the character and appearance of the area. It would therefore conflict with Policies DES1 and DES2 of the DMP. These policies support new development of a high quality design that promotes and reinforces local distinctiveness and the character of the surrounding area, including residential garden land development, that is designed to respect the scale of existing buildings in the locality, of a height, bulk and mass to be in keeping with the streetscene and

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<sup>3</sup> Council Ref: 20/02510/F

<sup>4</sup> Council Ref: 20/00314/F

not create an undue disruption to the character and appearance of the existing street frontage.

33. It would also conflict with the National Planning Policy Framework (the Framework) which seeks development that is sympathetic to local character and establishes or maintains a sense of place. It would also not accord with the National Design Guide which amongst other things supports well-designed places which enhance their surroundings. The proposal would additionally not comply with the guidance set out in the SPD which seeks development that respects and responds to its context.

#### *Living conditions*

34. Number 21 is a bungalow. It adjoins the appeal site to the east, with a single-storey garage butting up to the site boundary. The front elevation of No 21 extends forward of this with a window serving a bedroom in the side elevation of this facing towards the appeal site.
35. The topography of the street means that the appeal site lies at a lower level than No 21. Block D would be close to the shared boundary with a set in indicated to be just over 1.4m. This block has been designed with a cat slide roof and a single-storey element closest to No 21. The difference in ground level and the limited height close to the boundary would help to reduce the visual dominance of the proposed building when viewed from this property.
36. A chimney is proposed on the side elevation of Block D which would rise vertically close to the boundary. However, this would be a relatively slender column and would be unlikely to significantly impact outlook or unacceptably create a sense of enclosure to this bedroom.
37. There are existing tall and dense evergreen trees along much of the boundary between No 21 and the appeal site. These would be removed to accommodate the proposed development. Whilst I have found this would be harmful to the character and appearance of the area, in terms of its effect on the living conditions of occupants of No 21 this would be limited. I appreciate that the outlook would change from a verdant boundary to the sloping roof of the proposed building and a timber fence. However, the overall height on the boundary would be reduced compared to the trees. It would therefore have less of an enclosing affect and outlook would be retained.
38. I conclude that the proposed development would not harm the living conditions of occupants of No 21 with particular regard to outlook and a sense of enclosure. It would therefore accord with Policies DES1 and DES2 of the DMP insofar as those policies require development to not adversely impact upon the amenity of existing occupants by way of overbearing and obtrusiveness. It would also accord with the requirement in the Framework to provide a high standard of amenity for existing users. Policy DES9 is concerned with pollution, including noise pollution which the Council has confirmed has been addressed. It is not therefore relevant to the remaining consideration of the main issue.

#### **Other Matters**

39. The appellant has argued that the appeal site is previously developed land (PDL). Paragraph 120 of the Framework sets out that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and planning decisions should promote and support the development of

- under-utilised land and buildings, especially if it would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.
40. The Framework defines PDL as land which is or was occupied by a permanent structure, including the curtilage of the developed land. However, it specifically excludes land in built-up areas such as residential gardens. The appeal site comprises six bungalows and their gardens. The entire site would not therefore be considered PDL.
  41. The existing bungalows and their front drives occupy a reasonable portion of the entire site. The proposed development would nevertheless occupy a more substantial footprint and a significantly greater area of hardstanding for car parking. It would therefore extend beyond the area of the site that could be considered to be PDL.
  42. In terms of the requirements under paragraph 120 of the Framework, I recognise that the redevelopment of the site to provide a greater quantum of housing could make more effective use of the site. However, it requires more than the area of PDL to do this. Furthermore, I am mindful that paragraph 124 of the Framework sets out that the desirability of maintaining an area's prevailing character and setting (including residential gardens) should be taken into account in regards to the efficient use of land. This forms part of my previous consideration on character and appearance.
  43. On balance, whilst the proposal would increase the amount and density of development on the site, it would not optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development, as required under paragraph 130 e) of the Framework. For this reason, I do not find it makes effective use of land. I therefore only attribute limited weight to the re-use of PDL.
  44. I have been provided with no evidence in relation to the Council's current housing land supply. Nevertheless, the scheme would provide a net gain of 33 residential units which would support the Government's objective to significantly boost the supply of housing and contribute to the supply of market housing locally. This benefit of the scheme carries moderate weight.
  45. The proposed development would be in a reasonably accessible location given its proximity to public transport, including Tattenham Corner railway station. This is a positive aspect of the scheme. The proposal would also provide more flatted development in the area which could provide more opportunities for younger people to purchase property.
  46. The scheme would deliver economic benefits both during the construction phase and subsequent occupation. Given the size of the scheme, these carry moderate weight.
  47. The scheme would meet required space standards, provide sufficient parking and be built to modern day building standards. It would also provide contributions through planning obligations and the Community Infrastructure Levy which would help to improve local infrastructure. However, these aspects of the scheme make the scheme acceptable and are neutral in the balance.
  48. A number of issues were raised by interested parties which included, amongst others, concerns in respect of security, harm to living conditions of occupants

of 36 Great Tattenhams, loss of light, traffic, parking and highway safety, loss of trees, lack of affordable housing and increased flood risk. However, as I am dismissing the appeal for other reasons I do not need to consider these matters further.

### **Planning Balance and Conclusion**

49. I have found that the proposal would not harm the living conditions of adjacent occupiers. However, this is a neutral factor in the balance.
50. The scheme would deliver a number of economic benefits as well as a boost to housing supply, providing greater housing choice, in an accessible location. Cumulatively, the benefits of the scheme carry moderate weight.
51. However, my finding is that the significant harm to the character and appearance of the area would be in conflict with both development plan policies and the Framework policies that seek to achieve well-designed places. This would not be outweighed by the benefits of the scheme. My conclusion is therefore that the scheme conflicts with the development plan as a whole.
52. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

*Rachael Pipkin*

INSPECTOR