



Appeal Decision

Site visit made on 7 November 2022

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 07 December 2022

Appeal Ref: APP/Q3820/W/21/3282436

5 Woolborough Road, Northgate, Crawley RH10 8EZ

- 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 Mrs Fiona Davis against the decision of Crawley Borough Council.
 - The application Ref CR/2021/0294/OUT, dated 21 April 2021, was refused by notice dated 17 June 2021.
 - The development proposed is demolition of the existing detached bungalow and erection of a part one and a half storey and part three storey residential building, comprising 1 x studio flats, 4 x one-bed flats and 2 x two-bed flats.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The outline application was submitted with appearance, layout and scale to be considered at this stage, and with access and landscaping reserved for future consideration. Some details relating to the reserved matters are shown on the plans, but they are for illustrative purposes only.

Main issues

3. The main issues are the effect that the proposed development would have on:
 - the character and appearance of the surrounding area,
 - the living conditions of the occupiers of Halfacres and 3 and 9 Woolborough Road regarding outlook and privacy,
 - the living conditions of the future occupiers of the proposed development regarding outlook,
 - the amenity, and health and longevity, of the nearby oak tree, and
 - whether the proposal would make adequate provision for affordable housing and tree planting.

Reasons

Character and appearance

4. The appeal site is situated within a mainly residential area, which includes bungalows, detached and terraced 2 storey houses, and flats buildings of up to 3 storeys, in various styles. Whilst the site is a short walk from the town centre and the nearby leisure park, the immediate locality has a suburban character and appearance.

5. The bungalow at 3 Woolborough Road is south west of the site and set back from the road by its front garden and drive. The mostly 2 storey Halfacres retirement flats lie to roughly south east, and the 2 storey and 2 storey plus attic Scott Summers Court at 9 Woolborough Road lies beyond the route off Woolborough Road that also leads to Halfacres, to north east. On the opposite side of Woolborough Road, to roughly north west, is the 3 storey Pottersfield flats building, which is spaciouly sited in its verdant grounds.
6. The appellant's arboricultural consultant says that the good-sized oak tree by the north corner of the site is subject to a Tree Preservation Order (TPO). The tree's main stem is close to the site's north east boundary near the pavement in Woolborough Road, and part of its canopy overhangs the site.
7. The proposed flats building would be sited towards the back of the site. Even so, the north east side of the building would be harmfully squeezed-in by the boundary, and much of the width and depth in front of the building would be hard surfaced for parking and turning. Due to its substantial scale, siting, and the likely hard surfaces for parking, paths, patios and so on by it, the proposal would take up a significant proportion of the site. Moreover, due to its mass and the scale of its footprint, the proposal would harmfully diminish the spaciousness at the site, which is important to its suburban character. Little planting under the oak tree's canopy would be likely to thrive, and due to their modest scale, minimal planting would be likely to endure in the other shared and private outdoor spaces. So, whilst there could be a little scope for planting by some boundaries, the urban character and appearance of the development would be harmfully out of keeping with its suburban context.
8. Furthermore, as parts of several flats would only be lit by rooflights with higher than average eills and/or obscured glazed windows, the poor outlook from their homes would be harmfully out of character with future occupiers' reasonable expectations in a suburban area such as this.
9. The Council says that the appearance of the proposal would be acceptable. As most aspects, including its external built form and materials, would harmonise with its surroundings, I agree. However, in terms of its layout and scale, the proposal would be unacceptably bulky, built-up and incongruous, to the detriment of the sense of place.
10. Therefore, I consider that the proposal would harm the character and appearance of the surrounding area. It would be contrary to Policies CH2 and CH3 of the Crawley Borough Local Plan 2015-2030 (LP) which seek respect for context and high quality design, and the National Planning Policy Framework (Framework) which seeks well-designed places.

Existing occupiers' living conditions

11. The nearest part of the Halfacres retirement flats building is a short way from the back of the site. The Council says that the windows in the nearby north west facing part of Halfacres light single aspect habitable rooms. The clear glazed first floor south east facing bedroom window in the taller part of the proposal's back would be at a slight angle to the nearer of these ground and first floor windows in the nearby north west facing part of Halfacres.
12. The distance between these opposing windows would be much less than 21 m, which is generally considered to be acceptable between opposing 2 storey

dwelling. Due to the relationships between them, overlooking from that south east facing first floor window would harm the privacy of the occupiers of the nearest ground and first floor north west facing flats at Halfacres. Moreover, due to the proposal's scale and bulk, and its relationships with them, the proposal would be harmfully overbearing and oppressive in the outlook from the nearest windows in the nearby ground and first floor flats at Halfacres.

13. The bungalow at 3 Woolborough Road is set well back from the road, and it is close to the site's south west boundary. The Council says that there are 2 windows in its north east facing side that are the only windows to bedrooms. So, it is likely that there is another room or rooms within that dwelling with a reasonable outlook over its front and/or back gardens.
14. The lower part of the proposal would be set well away from the common boundary by a shared outdoor space. Whilst the width of that space would be less than the 10.5 m guideline for a 'blank gable end' in the Urban Design Supplementary Planning Document (SPD), the side by side relationship between the proposal and the bungalow differs from the side and rear extensions referred to in the SPD. So, due to the scale and layout of the lower part of the proposal and its relationship with the north east facing windows in the bungalow, and as its taller part would be sited well away from the common boundary, its impact on the outlook from 3 Woolborough Road would be acceptable.
15. The south west facing windows in the upper floor of the proposal's taller part would be obscure glazed or rooflights with higher than average cills, and its clear glazed first floor south west facing window would be partly screened by the lower part of the proposal. So, subject to the imposition of a condition to control the cill heights of the south west facing rooflights, the proposal would not enable harmful overlooking into the north east facing windows at 3 Woolborough Road.
16. The taller part of the flats building at 9 Woolborough Road is sited relatively close to the road, whereas the proposal would be set well back. At their closest, the distance between the proposal and the taller part of 9 Woolborough Road would be a little less than 30 m, which is generally considered to be acceptable between opposing 3 storey dwellings. However, as the taller parts of both buildings would barely overlap, and the lower part of 9 Woolborough Road would be much further away, the impact of the proposal on the outlook from 9 Woolborough Road would be acceptable.
17. The only nearby south west facing second floor window in 9 Woolborough Road is, and the nearest second floor north east facing window in the proposal would be, obscure glazed. So, due to the relationships between these existing and proposed developments, and subject to the imposition of conditions to control the glazing of the nearest second floor north east facing window, and the cill heights of the north east facing rooflights, the living conditions of the occupiers of 9 Woolborough Road would be acceptable in terms of privacy.
18. Thus, I consider that the proposal would harm the living conditions of the occupiers of the nearby ground and first floor flats at Halfacres regarding privacy and outlook. It would be contrary to LP Policy CH3 which seeks a good standard of amenity for all existing and future occupants of land and buildings, relevant guidance in the SPD, and the Framework which seeks a high standard of amenity for existing and future users.

Future occupiers' living conditions

19. The ground floor 2 bedroom flat would include a bedroom that would be solely lit by a high level window. The window would be sufficient to provide some natural light and natural ventilation in that room. However, because both of the only other habitable rooms could be occupied separately by other family members for different reasons, the lack of outlook from that bedroom would not be acceptable.
20. The only windows within the second floor one bedroom flat would be the obscure glazed south east facing window in its kitchen/dining/living room and rooflights with higher than average cills elsewhere. As the outlook from this flat would mostly include views of the sky and roofs, the occupiers would have little connection with their surroundings, so their living conditions would not be acceptable. Moreover, the north west facing second floor flat would be close to the oak tree's canopy. As its future occupiers' only outlook would be under and/or into the tree's canopy close by, its oppressive and overbearing effect on their outlook, especially when the tree is in leaf, would also not be acceptable.
21. Thus, I consider that the proposal would harm the living conditions of the future occupiers of the ground floor 2 bedroom flat and both second floor flats regarding outlook. It would be contrary to LP Policy CH3 and the Framework.

The oak tree

22. The nearby oak tree appears to be in good health with no significant defects. Due to its reasonably natural form and its substantial height and spread, it has significant amenity value. Due to its sylvan character, and as its canopy can be seen from much of Woolborough Road and other nearby streets including Kilnmead and Cobbles Crescent, it is important to the character and appearance of the area.
23. The appellant's arboricultural assessment and arboricultural method statement includes a tree constraints plan and measures to protect the oak tree during construction. Due to the siting of the appeal building under and/or close to its canopy, it is likely that the tree's canopy would need to be reduced to give clearance for construction, which would erode its natural form. The appellant says that the reduction of its canopy where the tree overhangs the site would make it more balanced. However, as previous pruning where the tree overhangs Woolborough Road was carried out by the highway authority for reasons relating to the public highway, it provides little support for reducing the canopy where it overhangs the site.
24. Because the tree should continue to grow, it is likely that, in time, there would be repeated applications from future occupiers, particularly those of the north west facing flats in the taller part of the proposal, for the tree to be severely reduced or felled, due to concerns including overshadowing, falling branches or the tree failing, which could damage the tree's shape or result in its loss. Moreover, as repeated pruning would be likely to harmfully diminish its health, it would be likely to lead to the premature loss of the tree, to the detriment of its contribution to amenity. Whilst the tree is subject to the TPO, because the occupiers' concerns could relate to their living conditions, the Council would find such applications hard to resist if the proposal were to be permitted.

25. Therefore, I consider that the proposal would harm the amenity value, and the health and longevity, of the nearby oak tree. It would be contrary to LP Policy CH2 which seeks to reinforce landscape character, LP Policy CH3 which seeks to retain existing individual trees that contribute positively to the area, the Green Infrastructure Supplementary Planning Document (GPD) which aims for layouts to be designed so that trees have space to reach maturity without the need for regular tree surgery, and the Framework which aims for existing trees to be retained wherever possible.

Affordable housing and replacement trees

26. LP Policy H4 seeks 40% affordable housing from all residential developments. The Council's reason for refusal refers to the absence of a legal agreement to secure financial contributions towards affordable housing. However, the appellant's representations explain that 2 affordable rent first and second floor rear facing flats, and one intermediate tenure second floor front facing flat would be provided as on-site affordable housing.
27. LP Policy CH6 aims for landscape proposals to include at least one new tree for each new dwelling, and for proposals that would result in the loss of trees to provide appropriate replacements. Several trees within the site would be felled to make way for the proposal, and it is unlikely that all the trees lost could reasonably be replaced within the site. As landscaping is a reserved matter the number of trees to be replaced off-site is not known. Even so, the GPD includes provision for financial contributions for off-site replacement trees, and the terms of a planning obligation could be framed to accommodate this.
28. The appellant is content for the proposed on-site provision of affordable housing and for a financial contribution towards off-site replacement trees to be secured by means of a planning obligation. Whilst the appellant has submitted a completed copy of the Council's draft Planning Obligation Instruction Form, there is no completed obligation before me. However, as the proposal would not be acceptable for other reasons, I have not pursued the matter further with the parties.
29. Thus, I consider that the proposal would not make adequate provision for affordable housing and replacement trees. It would be contrary to LP Policies H4 and CH6, the Affordable Housing Supplementary Planning Document, the GPD, and the Framework.

Other matters

30. The site is within the Sussex North Water Supply Zone. In determining this appeal, I am the competent authority for the purposes of the Conservation of Species and Habitats Regulations 2017 (as amended).
31. Natural England has advised that the Sussex North Water Supply Zone includes supplies of groundwater abstraction which cannot, with certainty, conclude no adverse effect on the integrity of the Arun Valley Special Area of Conservation, the Arun Valley Special Protection Area and the Arun Valley Ramsar Site (the Arun Valley site). As it cannot be concluded that the existing abstraction within the Sussex North Water Supply Zone is not having an impact on the Arun Valley site, developments within this zone must not add to this impact. One way of dealing with this is water neutrality, that is, the use of water in the

supply area is the same or lower after the development has taken place. A strategic approach is being developed to deal with water neutrality.

32. Because the proposal is not directly connected with or necessary for the management of the Arun Valley site, it would be necessary for me to undertake an appropriate assessment of the implications of the proposal for the Arun Valley site in view of its conservation objectives. I could only grant planning permission if I were to ascertain in that appropriate assessment that the integrity of the Arun Valley site would not be adversely affected. However, as the proposal would not be acceptable for other reasons, it is not necessary for me to undertake an appropriate assessment, and so I have not pursued the matter further with the parties.
33. The 6 welcome new homes would make more efficient use of the reasonably accessible site, and its other benefits would include jobs during construction and its future occupiers' likely support for shops and services in the Borough. However, even if an appropriate assessment were to conclude that there would be no significant adverse effect on the integrity of the Arun Valley site, the benefits would not outweigh the harm identified in the main issues.

Conclusion

34. I have found that the proposed development would be contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
35. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR