



Appeal Decision

Site visit made on 21 September 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 09 December 2022

Appeal Ref: APP/M3645/W/21/3287779

15 Barrow Green Road, Oxted RH8 0NJ

- 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 Rushmon Homes against the decision of Tandridge District Council.
 - The application Ref TA/2021/703, dated 12 April 2021, was refused by notice dated 9 November 2021.
 - The development proposed is described as the erection of 14no. two bedroom apartments and associated parking following demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development has been taken from the appellant's planning application form. However, this differs from that of the Council's Decision Notice and the planning appeal form which describes the proposed development as 'demolition of the existing buildings; Erection of a two storey building with accommodation in the roof space fronting onto Barrow Green Road comprising 9 x two bedroom flats and erection of a two storey building at the rear of the site adjacent to the railway embankment comprising of 4x two bedroom flats together with new vehicular access, parking and amenity areas. (Amended Plans)'. This is because during the application process the main parties agreed alterations to the original scheme. Due to this and for clarity, as multiple versions of plans have also been submitted, I have made my decision based on the amended description and the plans listed on the Decision Notice.
3. Within the Council's fifth reason for refusal, harm to plots 11-13 within the proposed building to the rear of the site, was identified. The plans before me do not differentiate individual plot numbers for this building, and the officer report deals with the rear building as a whole. Therefore, I have also considered the rear building as a whole in relation to this issue.

Main Issues

4. The main issues are the effect of the proposed development on
 - a) the character and appearance of the area; and
 - b) the living conditions of the occupants of Nos 13 and 27 Barrow Green Road with specific regard to privacy for No 13, and noise and disturbance for No 27;whether the proposed development would

- c) provide acceptable living conditions for future occupiers with specific regard to privacy, daylight and sunlight, noise and disturbance, and outdoor space;
- d) provide adequate on-site parking; and
- e) the effect of the proposed development on highway safety.

Reasons

Character and appearance

5. The appeal site constitutes a large plot historically used by a coach hire company. It is laid to hardstanding with a large commercial unit to the rear and a residential dwelling to one side which also included the offices for the business. To the rear of the site is a tree lined railway embankment and to either side are a series of traditional, mainly 2 storey dwellings. These properties appear similar in age and style, and all face the road behind modest gardens or parking areas. In the main the properties are grouped in semi-detached pairs separated by either single storey extensions, outbuildings or open space creating a regular cadence to the streetscape. It is noted that on the figure ground plans submitted by the appellant, some of these semi-detached pairs look like short terraces as they do not differentiate between the main dwellings, and single storey additions or outbuildings between.
6. The proposal would create 2 buildings, one to the front and one to the rear with a parking court between. The rear building would be similarly proportioned to the neighbouring semi-detached pairs but located well behind the building line, which would be out of character for the area. This is because generally only smaller outbuildings are located at the back of residential sites in the vicinity and are usually subservient and ancillary to the host property which is positioned nearer the road. The incongruity of the location of the proposed rear building would be visible across neighbouring properties' gardens.
7. The proposed rear building would also create a hard backdrop to the proposed road facing building, as it would be visible through the proposed undercroft. It would remove any visual relief to the solid mass and form the proposed frontage building would create. This would be at odds to the cadence of the street scene which is characterised by regular glimpses of taller planting in rear gardens and the tree lined embankment between individual properties.
8. The proposed front building is better located as it would follow the existing building line. However, despite it being 2 and a half storeys high, it would be of a size and bulk which is entirely out of character with its surroundings. It would be at odds to the cadence of the road as it would create a solid mass without any differentiation in height across its width or visual break within the frontage. This would create a heavy and bulky form which would overwhelm rather than integrate with the pattern of development along this part of Barrow Green Road. I therefore find the scale, bulk and mass of the proposed front building and location of the proposed rear building would fail to respect the character and appearance of the local area.
9. The design of the proposal includes elements which are not obviously part of the local vernacular such as the undercroft, recessed balconies within the roof form and disproportionate sized side dormers with small windows. These features further exacerbate the bulk and incongruity of that proposed in relation to its surroundings. The main entrance to the bulk of the proposed

front building would be positioned beneath the undercroft, with private patios facing the road. This is at odds to the appearance and legibility of Barrow Green Road where, in the main, properties are defined by road facing front doors.

10. The current site is lacking in green space and the proposal would introduce more than existing. Nevertheless, the proposal requires much of the site, beyond the buildings, to be retained as hardstanding for parking, access, and a refuse collection layby. Visually this creates a layout where open space and soft landscaping appear relegated to the 'left-over' areas of the site and of a quality not suitable for the expected use (discussed further below) nor the enhancement of the site's appearance.
11. In totality this would create a site dominated by built form and hardstanding which is at odds to the character and appearance of the surrounding area. That the existing site is similarly dominated by hardstanding is not in contention, nevertheless, the existing buildings are to the rear and side of the site which creates an open space within the road's built form. This is visually less harmful to the area's character than the proposal, which would be incongruously different and overwhelming within the existing streetscape. The perceived negative contribution the existing site has to the character and appearance of the area and its proposed replacement does not lessen the harm caused by the proposal.
12. It is noted that the appellant states that adjoining neighbours have agreed to various landscaping features (also relating to living conditions as discussed below), nevertheless this does not overcome the lack of cohesion in the overall site layout. A lack of harm to nearby trees and existing biodiversity is noted, but a lack of harm, by definition, cannot weigh for or against a development.
13. Consequently, the proposed development would harm the character and appearance of the area. As such, it would be contrary to Policy CSP18 of the Tandridge District Core Strategy 2008 (LPCS) and Policy DP7 of the Tandridge Local Plan Part 2: Detailed Policies 2014 (LPDP) insofar as they seek high quality design that respects the character and appearance of the area. The landscape elements of the scheme also do not accord with Key Considerations 2 and 4 of the Tandridge District Trees and Soft Landscaping Supplementary Planning Document, which seek the integration of landscaping features within a proposal.

Living conditions – Nos 13 and 27 Barrow Green Road

14. On either side of the appeal site are a semi-detached, 2 storey dwellings, 13 and 27 Barrow Green Road. No 27 shares its side and rear boundary with the appeal site, and the main dwelling is a set away from the side boundary behind an attached single storey garage. No 13 also shares a side boundary with the appeal site but due to its angled shape, has a narrowly tapering and constrained rear garden, whilst the side elevation of the main dwelling forms part of the boundary itself.
15. The proposed replacement of the commercial unit at the rear of the site with a residential building, would mean an increase in overlooking of the rear elevation and garden of No 27. Specifically, from the proposed first floor Juliet balcony nearest the shared boundary which would serve as the primary window for the living space of a 2 bedroom flat. This window would be less than 22m

from the rear of elevation of No 27 but would not directly align as specified in part 7 of LPDP Policy DP7. Nevertheless, as there is no current overlooking of No 27 from the appeal site, the fact the main window of a primary living space for a flat of up to 4 occupants would have views, albeit slightly obliquely, across the garden and rear elevation of No 27 would reduce the privacy of that property's occupants, to the detriment of their living conditions.

16. The plans show along the boundary with No 27, a 1.8m high fence topped with trellis. There is some discrepancy across the plans as whether trees would also be planted along this boundary. From the information before me the fence would not be high enough to screen views from the Juliet balcony in question. Moreover, any trees or landscaping planted would take a significant amount of time to mature and its effectiveness would be diminished in winter months when plants and trees are likely to lose their leaves. There is also nothing before me to ensure the long term maintenance and retention of any screening planting to ensure it longevity.
17. The proposal would locate 7 parking spaces along the boundary next to No 13's rear garden. Although there is potential that the manoeuvring of vehicles throughout the day and evening could lead to noise and disruption for the occupants of No 13, I am not convinced that this would be of a level greater than previous or existing. The baseline of noise being from the manoeuvring of coaches on the site; the existing road noise, which is clearly audible due to the lack of buildings on the appeal site between the rear garden and Barrow Green Road; and the existing railway noise. Consequently, I do not consider that the proposal would create an amount of noise and disturbance from vehicle manoeuvring beyond that which already exists and so would not significantly impact the occupants of no 13 in relation to this.
18. However, although I find a lack of harm in relation to the occupants of no 13, the proposal would still cause harm to the living conditions of the occupants of no 27 in relation to privacy. This would be contrary to LPCS Policy CSP18, and LPDP Policy DP7 insofar as they seek to safeguard the living conditions of existing occupants of neighbouring properties.

Living conditions – future occupants

19. The proposal would provide 13, 2 bedroom flats, 5 at ground floor level, 6 at first floor level and 2 at second floor level. The ground floor flats would have access to patios and the second floor flats would have balconies recessed into the roof. 11 of the proposed dwellings would have habitable rooms overlooking the central parking court.
20. Referring to part 7 of LPDP Policy DP7, it is not obvious that the distance between the two proposed buildings would be consistently at least 22m, and there are numerous windows between the 2 proposed buildings which align up both at ground and first floor. There is, therefore, a high potential for direct views between multiple flats and into habitable rooms, and there is no obvious mitigation for this within the layout or landscaping.
21. The proposed private balconies and patios facing the road would be visible to passers-by and occupants in the properties on the opposite side of the road which are situated on higher ground level. One of the proposed patios would be adjacent to the public footpath and refuse collection point, without any form of privacy screening or defensible space. The private patio and balcony that would

face into the parking court would also be heavily overlooked by all the flats in the rear building.

22. I am therefore not convinced that the proposal would be able to provide suitable privacy for future occupants of the proposed flats. The high level of intervisibility between flats and the overlooking of the private outdoor space related to the front building mean the proposal would not be able to provide adequate privacy for all future occupants.
23. Within the proposed rear building the 2 ground floor flats' main living space and patios, and the 2 first floor flats' bedroom windows would face the rear boundary of the site. There would also be a small triangle of communal outdoor space beyond the patios. The rear boundary abuts the railway embankment and, in part due to the incline of the bank, the mature trees within it clearly and obviously overhang the site. I visited the site in the late morning, on a reasonably bright day when the trees were in leaf and observed that they created a dark and dense canopy, significantly shading the rearward portion of the site and the rear elevation of the existing building. I appreciate the rear elevation of the proposed rear building would be set slightly further into the site than the existing commercial unit, but this would be marginal in relation to the proportions of the site, embankment, and trees.
24. Within the appellant's Sunlight and Daylight Report (SDR) the consultant has discounted the trees within their calculations referencing a quote from the Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice' by P J Littlefair 2011 (BRE Guide)¹. However, it is further noted at paragraph 7.1 of the SDR, when considered as a whole, the BRE guide specifically focuses on building to building impact, with the specified calculations representing numerical guidelines which should be interpreted flexibly in relation to the factors of the site layout and design.
25. Were the trees removed the proposed rear facing elevation of the rear building and outdoor space beyond would receive adequate daylight and sunlight according to the afore mentioned desktop calculations. However, the calculations are in effect a starting point for assessment. The trees are in existence, are located beyond the control of the appellant with no expectation for them to be removed, and from observations on site would have, at the very least, an oppressive effect on future occupants perception of daylight and sunlight. As such, these matters cannot be discounted. Therefore, taking a pragmatic view I cannot satisfactorily find that daylight and sunlight would not be adversely impacted to the detriment of the living conditions of future occupants of the proposed rear building.
26. The application was supported by a comprehensive Noise and Vibration Assessment which not only considered the railway but also potential heavy goods vehicles using Barrow Green Road. The Assessment confirms that all proposed flats would face either the road or railway and would be significantly impacted by noise. However, it also provides a comprehensive mitigation programme for normal conditions and a recommendation for additional assessment in relation to overheating conditions.

¹ It is noted that the cited BRE guide has now been superseded by the 2022 edition. However, the calculations within the SDR do not refer to the deleted Average Daylight Factor test, and although reference the now obsolete BS8206-2, provide adequate information for assessment in this instance.

27. Nevertheless, this does not consider that most of the limited proposed outdoor space, both private and communal, would also abut or face the road or railway, with no obvious protection from noise, so would be similarly if not more so effected by disturbance. Consequently, the living conditions of future occupants would likely be harmed by the effect of noise and disturbance from the road and railway on the usability of the proposed outdoor space.
28. Looking specifically at the quantum and quality of the proposed outdoor space, 9 of the 13 proposed units would have private outdoor space. Although the sizing of these areas is not contested, all, as set out above, would be detrimentally impacted in relation to privacy, and/or daylight and sunlight, and/or noise and disturbance. For these reasons I do not find the proposed private outdoor spaces to be of good quality.
29. The appellant considers the proposed Juliet balconies as a form of outdoor space. However as these would not allow future occupiers to physically leave the internal space the Juliet balcony is attached to, I have discounted them.
30. Turning to the proposed communal outdoor space, this would constitute the section at the very back of the appeal site and two areas between the front building and parking court. The section at the back would be equally negatively impacted by the railway and lack of light as the similarly located private patios and so would be of equally poor quality. It would also be constrained in size and not welcoming to use due to the proximity and intervisibility with the 2 ground floor flats which would face it.
31. The proposed 2 areas to the rear of the front building would be small and compact, and one is awkwardly shaped to allow for car parking. They would likely be less impacted by noise and lack of light, due to their central location within the appeal site, and a level of overlooking of communal outdoor space is expected within flatted developments. However, it would be unlikely these areas would be convenient or functional for shared and regular use by the occupants of those 6 proposed flats which do not have private outdoor space, due to their cramped and restrictive shape and size. Therefore, when viewed as a whole, I find the proposed outdoor space would be inadequate and unfit for purpose.
32. Compliance with the nationally prescribed internal space standards, the potential for a reasonable outlook from the proposed flats and private access points are matters of good design and constitute a lack of harm. A lack of harm cannot weigh for or against a scheme.
33. The proposal would not, therefore, be able to provide acceptable living conditions for future occupiers regarding privacy, daylight and sunlight, noise and disturbance and outdoor space. This would be contrary to LPCS Policy CSP18, and LPDP Policy DP7 insofar as they seek to safeguard the living conditions of potential occupants of new development.

On-site parking

34. The proposal would provide 13 parking spaces which equates to 1 space per flat. The Council's Parking Standard Supplementary Planning Document 2012 (SPD) sets out specific off-road parking requirements for new residential dwellings and would require either 19.5 unallocated or 26 allocated spaces. The proposal does not comply with these requirements.

35. The appellant states that the Surrey County Council's Vehicular and Cycle Parking Guidance 2018 (VCPG) would only require 13 parking spaces. Although it is appreciated the VCPG is more recently written than the SPD, there is no substantive evidence submitted to indicate that the VCPG supersedes the SPD or that their contents conflict with each other. Surrey County Council as Highway Authority have remained not commented on the proposed quantum of parking or referred to the VCPG within their formal consultation responses to this scheme, and the Council do not recognise the VCPG as superseding the SPD.
36. The proximity of the site to services and public transport is also noted, as is the provision of adequate cycle storage on site, and it is appreciated this could mean future occupants do not require more than 1 car per flat. Nonetheless, the quantum proposed does not provide any opportunity for additional parking either formally, for future occupants, or informally, for guests, relying entirely on the on-street parking provision, already relied on by existing occupants of the area. There is nothing before me which sets out the current on-street parking stress for the area nor how any overspill parking from the proposed development would affect this.
37. As such, and taking a cautionary approach, I am not satisfied that any overspill parking that could be created by the proposal would not have a detrimental impact on the amenity of future occupants and current neighbouring residents, and road congestion. The proposed development would, therefore, fail to provide adequate on-site parking contrary to LPDP Policy DP7, insofar as it relates to parking standards.

Highway safety

38. The appeal site occupies a position on the inside of a bend at the brow of a hill on Barrow Green Road. The road has pavements on both sides and on-road parking is not allowed within the vicinity of the site. The nearby roads also have parking restrictions, where the nearest designated on-road parking bays are time limited. At the time of my site visit, Barrow Green Road appeared a well-used road. Although I appreciate this is only a snapshot in time, it is supported by the Noise and Vibration Assessment which considered it necessary to assess the regular quarry traffic that uses the road.
39. The proposal would provide a layby specifically for use by refuse collection vehicles to allow off-road collection of domestic rubbish. From drawing 111-08, it is evident that the layby would be within the sight lines of the proposed new access. Therefore, any vehicle parked within the layby would reduce the intervisibility between users of the access and those using Barrow Green Road, which would have a detrimental impact on highway safety.
40. Due to the location of the proposed bin storage and the number of bins emptied per collection, it is likely that the refuse vehicle would not be in the layby for an extended period. As bin collection would not be a daily occurrence there is potential the impact from a refuse vehicle in the layby would be minimal. However, there is no mechanism before me to ensure that the layby would only be used by refuse vehicles, preventing delivery vehicle use or overspill parking from the proposed scheme or surrounding residential properties, or to prevent extended stays.

41. Due to the existing parking restrictions on Barrow Green Road, and the distance to usable on-road parking spaces, the likelihood of the layby being used for parking other than by refuse vehicles during collection is likely. Anything other than minimal use of the layby would have a detrimental impact on visibility between those exiting the site and other road users.
42. It is appreciated the previous use of the site included the regular movement of coaches on and off the appeal site. However, the appeal site frontage is wide open which would have allowed unrestricted views of both oncoming vehicles and pedestrians for those exiting. Whereas the proposed access would be considerably narrower with a defined visibility splay in which the layby would be positioned.
43. For the above reasons, the proposal would have an unacceptable impact on highway safety. This would be contrary to LPCS Policies CSP12, LPDP Policies DP5 and DP7, insofar as they relate to well-designed proposals and highway safety; and the National Planning Policy Framework (the Framework) paragraphs 110b) which requires that development should ensure safe and suitable access to the site can be achieved for all users, and paragraph 11, which states development should be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

44. The lack of objection by the Council in relation to the loss of a commercial site, the proposed residential use and development density is noted. I also note that the appellant states they have undertaken extensive consultation with local residents. Nevertheless, these matters are neutral and do not constitute benefits of the scheme so do not mitigate or alter my findings.
45. The appellant's concern in relation to the submission of highway comments and the speed the Council issued the decision is a matter to be taken up with the Council and does not affect the planning merits of the case before me.
46. It is also noted that the Council was concerned with the proposed housing mix, although this did not form part of a reason for refusal. As I am refusing the proposal for other reasons, I have not explored this further.

Planning Balance

47. The scheme would provide 13 new dwellings on a small, previously developed, windfall site which has the potential to be built-out quickly and is well situated. This would comply with the Government's housing objectives as set out in paragraphs 60 and 69 of the Framework. Therefore, as benefits of the proposal, I give these matters moderate weight. I also note that it is intended that through the proposed landscaping and provision of bat and bird boxes the biodiversity of the appeal site could increase. Nonetheless, I can only afford this a little weight as the proposed landscaping is limited and there is nothing before me to show how much uplift the proposal would have.
48. Housing provision should also not come at the cost of good design, the living conditions of future and neighbouring occupants or highway safety, a position supported by paragraphs 110, 111 and 130 of the Framework. Consequently, I find that the adverse impacts of granting planning permission would outweigh the proposed benefits.

Conclusion

49. For the reasoning above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, that would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR