



Appeal Decision

Site visit made on 16 November 2022

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Appeal Ref: APP/C3620/W/22/3296305

Rear of 12-16 Kingscroft Road, Leatherhead, Surrey KT22 7BU

- 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 Mr Daniel Absalom of Airborne Properties Ltd against the decision of Mole Valley District Council.
 - The application Ref MO/2021/2280/PLA, dated 7 December 2021, was refused by notice dated 4 February 2022.
 - The development proposed is described on the application as the 'erection of two pairs of semi-detached three bedroom houses, each with two parking spaces accessed from new private access road leading off Kingscroft Road, following demolition of existing garage building forming part of No 14 Kingscroft Road.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the appeal stage, amended plans were submitted. This removes side-facing windows from the scheme. An appeal should not be used to evolve a scheme and I am not confident that third parties have had sufficient opportunity to comment on those amendments. On this basis, I have not taken them into account.
3. Notwithstanding the address set out on the application form, the appeal form uses *Rear of 12-16 Kingscroft Road, Leatherhead, Surrey KT22 7BU*. This more accurately describes the location of the appeal site. The Council assessed the application on that basis, albeit including the word 'Land', and so shall I.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect on biodiversity;
 - whether a satisfactory standard of accommodation would be provided for future occupants, with particular regard to internal space standards; and
 - the effect of the proposed development on the living conditions of neighbouring properties, with particular regard to overlooking.

Reasons

Character and appearance

5. The appeal site comprises part of the rear gardens of three established semi-detached houses fronting Kingscroft Road. The appeal properties, and most adjacent properties, typically have rectangular plots with deep rear gardens. These rear gardens are largely free of buildings and provide a spacious backdrop to the built development within the area. Their mature and attractive appearance contributes to the area's character and appearance. The rear gardens are readily visible from neighbouring properties and from the adjacent church car park, and can be glimpsed from the public footpath to the rear of the appeal site and from Kingscroft Road.
6. Properties surrounding the site are of a varied appearance, with some bungalows as well as two-storey properties. These are generally semi-detached. However, there is a sense of coherence within Kingscroft Road through the alignment of properties along the highway, set back behind front gardens and driveways with long rear gardens, as described above.
7. The new properties would span much of the width of the appeal site, although a small gap would exist between the two pairs of semi-detached properties and the boundaries with 10 and 18 Kingscroft Road.
8. Whilst the appeal proposal would have limited visual prominence from Kingscroft Road, the dwellings would appear visually dominant, cramped and significantly larger than established dwellings fronting Kingscroft Road in terms of their overall plot coverage, bulk and massing. The proposed development would be discordant and out of keeping with the established pattern and rhythm of development in this part of Kingscroft Road.
9. I note the appellant's comments in respect of small multiple dwelling developments being desirable over single plot development. However, the proposed dwellings would have a large footprint occupying a significant part of the rear gardens. The overall height and massing of the proposed dwellings would notably intrude into the attractive open garden land and introduce significant built development and areas of hard surfacing where this does not currently exist. In its local context, the development would appear prominent and incongruous and would detract from the open, spacious and mature rear garden environment.
10. For the reasons above, I conclude that the proposed development would harm the character and appearance of the area, contrary to the relevant provisions of Policy CS14 of the Mole Valley Core Strategy (CS, 2009) and Policies ENV22, ENV23 and ENV24 of the Mole Valley Local Plan (LP, 2000). These policies, in summary, seek high quality design in development. This is in a similar vein to the objectives of the National Planning Policy Framework (the Framework) insofar as good design is concerned.

Green infrastructure

11. CS Policy CS15 requires that all mature hedges and trees within development sites should be, as far practicable, retained. Only where no realistic alternatives are available or replacement of such features elsewhere in the site would result in biodiversity enhancements above what already exists, will removal of such

features be permitted. In these cases, the replacement will be expected to result in biodiversity enhancements to what previously existed.

12. A number of mature and semi-mature trees would be removed as part of the proposed development, together with existing lawned and bedding areas. A series of proposed biodiversity enhancement measures have been proposed by the appellant, including proposed planting and the provision of bird and bat boxes.
13. Notwithstanding this, and acknowledging that the CS does not clearly specify the need for calculations in respect of net gains for biodiversity, as requested by Surrey Wildlife, I have no substantive evidence before me that demonstrates that the proposed measures could realistically achieve net gain objectives, particularly given the limited size of the site. Moreover, the appellant in their appeal statement sets out that their own consultant's recommendations would not be possible to achieve here.
14. Consequently, there is insufficient evidence to demonstrate that the proposal would have an acceptable effect on biodiversity, contrary to the relevant provisions of CS Policy CS15 which, in summary, seeks to ensure that development proposals avoid negative impacts on biodiversity. This is in a similar vein to the objectives of the Framework insofar as biodiversity is concerned.

Standard of accommodation

15. I note that within its officer report the Council considers the proposed development to fall below the Nationally Described Space Standard (NDSS) in respect of bedrooms.
16. However, there is no reference to the NDSS or internal space standards more generally within any policy or guidance that is before me. Whilst I have taken this aspect into consideration, I have afforded it only limited weight.
17. Based on the submitted plans, and notwithstanding a proposed change to the layout of proposed dwellings to achieve NDSS requirements, they would appear to provide an acceptable standard of accommodation for future occupants, with reasonable layouts, dual aspect with satisfactory outlook and access to adequate private amenity space.
18. In conclusion, the proposed development would provide a satisfactory standard of accommodation for future occupiers, compliant with the relevant provisions of LP Policy ENV22, which amongst other things seeks to promote the creation of developments with a high standard of amenity for existing and future residents.

Living conditions

19. There is no dispute between the Council and appellant in respect of overlooking towards the rear elevations of 10-18 Kingscroft Road or properties within Kingston Road. Similarly, there is no dispute in respect of overlooking to properties within Church Gardens or Woodvill Road. This is largely due to proposed separation distances between properties, their positions relative to the appeal site and intervening boundary treatments. I have no reason to disagree with the Council in these respects.

20. First floor side facing windows would allow views into the rear gardens of 10 and 18 Kingscroft Road. At present, the occupants of those properties benefit from reasonable levels of privacy within their rear gardens by reason of there being no nearby built form in that direction. The inclusion of first floor level windows would therefore allow elevated views towards these gardens, which would have the effect of harming the living conditions of occupants. The appellant has set out that the inclusion of these windows was in error and has submitted revised plans with the appeal to remove them. Were I to allow the appeal, I am satisfied that the exclusion of the windows at first floor level could be sought by condition.
21. Overall, I conclude that the proposed development would be acceptable in respect of the living conditions of neighbouring occupants, with particular regard to overlooking, in accordance with the relevant provisions of LP Policy ENV22, which in summary seeks to protect the living conditions of occupants.

Other Matters

22. The Council cannot demonstrate a five-year supply of deliverable housing sites. The shortfall is described as 2.9 years by the appellant, which is substantial. Consequently, the provisions of footnote 8, paragraph 11 d) ii of the Framework should be applied.
23. Moreover, I recognise that CS Policy CS1 directs development to previously developed land (PDL) within built up areas, including Leatherhead. However, the appeal site is a residential garden in a built-up area and would not meet the Framework's definition of PDL.
24. The Framework seeks to ensure that the density of development maintains the areas prevailing character, that development is sympathetic to local character and history, including the surrounding built environment and landscape setting, and that biodiversity is improved. The objectives of the Framework therefore support the general thrust of the CS and LP in terms of the design of development and biodiversity.
25. Even taking account of the objective of significantly boosting the supply of housing, recognising the contribution of small sites and giving great weight to the Councils' housing land supply position, the conflict between the proposal and CS Policies CS14 and CS15 and LP Policies ENV22, ENV23 and ENV24 should be given significant weight in this appeal.
26. Set against the harm identified there would be limited social and economic benefits associated with the proposed development. It would represent a contribution of four extra dwellings to housing supply in an area which is accessible and with an acknowledged lack of future provision. However, this would be modest in respect of the overall supply of housing.
27. The proposed development would support employment during construction and the bringing of trade to nearby services and facilities post-occupation. However, this would inevitably be limited given the scale and nature of the development proposed.
28. Consequently, the adverse impacts on the character and appearance of the area and biodiversity would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a

whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

29. The proposal would conflict with the development plan as a whole and there are no material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal is dismissed.

A. Price

INSPECTOR