



Appeal Decision

Site visit made on 6 December 2022

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 JANUARY 2023

Appeal Ref: APP/M3645/W/21/3287596

1 Loxford Road, Caterham CR3 6BH

- 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 Bettina Neumann against the decision of Tandridge District Council.
 - The application Ref 2021/1443, dated 6 August 2021, was refused by notice dated 10 November 2021.
 - The development proposed is the demolition of existing buildings and erection of between 4 and 7 replacement dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. The application for costs made by the appellant against the Council is the subject of a separate decision.

Preliminary Matters

3. Notwithstanding the description of development above, the planning application was made in outline with all matters reserved except for access. For the purposes of this appeal, I am treating all the submitted drawings as only indicative of the proposed development.

Main Issues

4. The main issues in this appeal are the effect of the proposal on i) the character and appearance of the area, ii) the living conditions for occupiers of adjoining properties with regard to privacy, and iii) biodiversity and wildlife habitats.

Reasons

Character and appearance

5. The appeal site is occupied by a detached bungalow on a large plot on the northern side of Loxford Road close to the junction with Harestone Valley Road in Caterham. To the rear of the site is Loxford Close a cul-de-sac which appears to be a more modern development. The surrounding area is mainly residential set within an undulating and verdant setting. There is significant variation in appearance in terms of detailing, materials and height (due to the topography). However overall, there is a rhythm and regularity in terms of scale, mass and layout providing a spacious suburban feel.

6. The outline proposal provides two indicative layouts. Layout 1 shows four detached developments with an access route between the properties creating two units fronting Loxford Road and two units located in the garden area behind. Layout 2 provides a similar arrangement at the front of the site, with two properties fronting Loxford Road split by an access route. However, here the access continues towards Loxford Close, and the rear properties are arranged to the western side of the access, in a similar linear arrangement to the existing properties in Loxford Close.
7. Although there is a mix of detached and semi-detached properties in the locality, they are generally similar in siting, layout, and form, with reasonable and largely undeveloped gardens to the rear. Nevertheless, it is acknowledged that Loxford Close is more densely occupied and the properties have smaller amenity areas than those in Loxford Road and Harestone Valley Road. Whilst Layout 2 would follow the vernacular of Loxford Close, in that the layout would provide an increased density, there would be limited curtilage for the proposed dwellings. Although the footprints of the proposed dwellings are only illustrative, due to the shape of the site, its constraints in terms of proximity to trees, the car parking spaces required and proposed access road, there would be little flexibility as to the proposed dwellings' respective and relative positionings. As such the dwellings would appear cramped.
8. When compared to Layout 2, the indicative layout of scheme 1 would provide a more spacious feel in terms of density and the provision of amenity space. However, the addition of two units to the rear of the site would provide a significant built development in contrast to the existing pleasant sense of spaciousness, which contributes positively to the character and appearance of the area. Furthermore, the rear gardens of this part of Loxford Road create a verdant break to the more densely occupied Loxford Close at the rear. Although it is evident there is some existing built forms within the rear gardens, these are outbuildings ancillary to the main properties which are proportional to the plots they are in, and their presence is softened by planting.
9. The density of the developments proposed, including buildings and the requirement for associated works, such as accessways and off-street parking provision, would erode the verdant character of the aforementioned gardens. Consequently, the proposal would create an overdeveloped feel given the lack of curtilage and amenity space. In addition, the significant reduction in garden size and more modest nature of plot size for the proposed dwellings, would be at odds to the adjacent properties and local suburban grain.
10. The proposed development would therefore be harmful to the character and appearance of the area. Accordingly, it would be contrary to Policy CSP18 of the Tandridge Core Strategy, adopted October 2008 (TCS) and Policy DP7 of the Tandridge Local Plan Part 2: Detailed Policies, adopted July 2014 (TDP) which, amongst other things, requires development to reflect local character and context. The proposal would also be contrary to Policies CCW4 and CCW5 of the Caterham, Chaldon and Whyteleafe Neighbourhood Plan, adopted June 2021 (NP) and aims and objectives of the Harestone Valley Design Guidance Supplementary Planning Document, adopted March 2011 (SPD) which seeks high standard of design to integrate in the surroundings and preserve and enhance local character. The proposal would also conflict with Paragraph 130 c) the National Planning Policy Framework 2021 (the Framework) insofar as it requires development to be sympathetic to local character.

Living conditions

11. It is acknowledged that appearance, layout and siting are reserved matters, indeed the quantum of the proposal is also unknown at this stage, with the description stating between four and seven dwellings, but not stipulating whether these are houses or flats nor qualifying how many bedrooms are proposed per unit. Nevertheless, both indicative Layout 1 and Layout 2 highlight that it would be possible to maintain a considerable distance between the built form on the appeal site and the rear of properties located in Harestone Valley Road, in excess of the minimum privacy distance of 22 metres required under TDP Policy D7. In this regard living conditions between these properties could be maintained.
12. From the evidence before me, an internal solution could be achieved to avoid unacceptable overlooking between the appeal site and the existing properties in Loxford Road and Loxford Close. The indicative drawings highlight that the proposed dwellings could be orientated with the flank elevations adjoining the rear elevations of existing properties, in order that proposed windows of habitable rooms need not face one another directly. As such, direct overlooking between the proposed dwellings and the existing could be mitigated to reduce any potential loss of privacy, subject to the detailed layout, which is a reserved matter.
13. Furthermore, it is acknowledged that the site is located on a slope and consequently could have different impacts on surrounding residents in respect to overbearingness, depending on the number of storeys proposed and position of units. Nevertheless, whilst the final quantum of development is not known given these matters are reserved, from my site observations the appeal proposal is well screened by existing vegetation which could be retained and/or enhanced through a detailed design subject to the reserved matters.
14. Consequently, the proposal would not unacceptably harm the living conditions of neighbouring occupants of the appeal site with particular regard to privacy and overbearingness. The scheme would be compliant with TCS Policy CP18 and TDP Policy D7 which amongst other things, are concerned with housing quality and protecting residential amenity.

Biodiversity and wildlife habitats

15. The appellant's Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA), submitted with the scheme sets out that the appeal site is not considered to be inhabited by protected species. Nevertheless, a Bat emergence survey was undertaken as recommended in the PEA and PRA. The emergence survey concluded that there was no evidence of bat roosts or emergence of bats from buildings at the appeal site. The assessment further concluded that enhancement measures for commuting bats could be incorporated as part of any proposed scheme.
16. The PEA highlights that existing habitats could be sensitively managed during the construction phase, including habitats for birds within which to nest. Furthermore, the PEA provided several biodiversity enhancement recommendations to ensure that as much habitat as possible is retained and enhanced post development.

17. Whilst it is acknowledged the appellant did not submit an arboricultural impact assessment with the proposal, the effective management of existing habitats could still be achieved through the mitigation measures proposed in the PEA and PRA, even if some trees were removed as part of the proposal. The biodiversity enhancement recommendations and arboricultural impact assessment could be secured by condition.
18. The Council has not submitted any evidence to counter the findings of these studies, and what has been submitted by the appellant satisfactorily demonstrates that any harm to habitats could be suitably mitigated due to the measures proposed. Consequently, I conclude that subject to conditions the proposal would protect biodiversity and wildlife habitats. It would therefore accord with TCS Policy CP17 and TDP Policy DP19 which amongst other things, seek to manage and enhance biodiversity.

Other Matters

19. The appellant draws my attention to the principle of the development being acceptable and that the development is considered sustainable development on economic, social and environmental grounds. Nevertheless, none of these matters are in dispute, and it is the impacts of the proposed development on the character and appearance of the area that results in the above conclusions on the main issues.
20. I understand that the appellant sought pre-application advice from the Council. However, whether or not the scheme is an improvement on those proposals, the Council ultimately refused the application for the reasons stated. I must determine the appeal in this context and on the basis of the proposal and evidence before me now.

Planning Balance

21. The Council accepts that it cannot demonstrate a five-year housing land supply (FYHLS) at present. Paragraph 11 of the Framework states that where the policies that are most important for determining the application are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted.
22. As such, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing additional dwellings to assist the Council in meeting its housing targets. There would be a modest benefit in the provision of between four and seven new dwellings. However, given the harm that I have identified in respect to the character and appearance of the area, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Conclusion

23. For the reasons given above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR