



Appeal Decision

Site visit made on 6 December 2022

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal Ref: APP/M1595/W/22/3302919

43 Purfleet Road, Aveley, Thurrock RM15 4DR

- 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 Rakesh Kainth (Montague TSK Limited) Limited against the decision of Thurrock Borough Council.
 - The application Ref 22/00375/FUL, dated 21 March 2022, was refused by notice dated 13 June 2022.
 - The development proposed is described as 'proposed redevelopment to provide six semi-detached houses'.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment to provide six semi-detached houses at 43 Purfleet Road, Aveley, Thurrock RM15 4DR in accordance with the terms of the application, Ref 22/00375/FUL, dated 21 March 2022, and the plans submitted with it, subject to the conditions in the schedule below.

Preliminary Matters

2. The plans were revised while the application was under consideration, to widen the proposed vehicular access and indicate the required visibility splays. I have taken account of these revised details which were considered by the Council.
3. The evidence refers to preparation of a new Local Plan for the Borough, which was subject to an Issues and Options consultation in December 2018. However, the reasons for refusal do not identify any conflict with this emerging Local Plan and it remains at an early stage of preparation. I have therefore given the emerging Local Plan limited weight when considering this appeal.

Main Issues

4. The main issues are:
 - the effect of the proposal on the living conditions of occupiers of the neighbouring property to the south, with particular regard to privacy, and
 - its effect on the character and appearance of the area.

Reasons

Living Conditions

5. The appeal site is at the corner of Purfleet Road and Love Lane and currently contains a bungalow. The proposed dwellings would be on two storeys, thereby

introducing windows at first floor level. The rear windows would face an adjacent bungalow to the south (no. 14 Love Lane), which is the focus of the first reason for refusal.

6. While different figures are offered as to the length of the proposed rear gardens, both parties agree that they would be significantly shorter than the minimum 20 metres separation distance required by the Council. This figure is included in Annexe A1 of the Local Plan adopted in 1997, which the Council's evidence indicates has been retained pending preparation of a Layout and Standards Supplementary Planning Document (SPD). However, Policy PMD1 of the adopted Core Strategy¹, which is referred to in the first reason for refusal, does not include specific standards for garden length.
7. No. 14 Love Lane is set back within its plot, with its main windows to front and rear. The outlook from most of the proposed dwellings would be towards its front garden or side elevation. The front garden is not a private area, since it is already open to view from the street. The very limited window openings on the side elevation are small and peripherally located, so they would not provide any clear view into the interior.
8. The dwellings on plots 1 and 2 would overlook the rear garden of no. 14, as would the dwelling on plot 3 to a less direct extent. This area is more private, but it is already overlooked by other first floor windows, notably from no. 45 Purfleet Road. The proposed first floor windows would be on a similar alignment to the existing first floor windows of no. 45, with only the ground floor windows being located closer to the boundary. Therefore, the relationship between first floor windows and rear gardens would be similar to the existing situation and the proposed development would not materially undermine existing standards of privacy, either in the rear garden of no. 14 or any other adjoining properties.
9. Although the proposed ground floor windows would be closer to the boundary, the proposed boundary treatment would maintain a suitable standard of privacy at ground floor level.
10. For the above reasons, while the proposed rear gardens would not achieve the minimum standards set out in Annexe A1 to the 1997 Local Plan, this would not result in any material loss of privacy compared to the current situation.
11. I therefore conclude that the proposed development would not harm living conditions for occupiers of the neighbouring property to the south, with regard to privacy. As such, it would not conflict with Policy PMD1 of the Core Strategy or relevant paragraphs in the National Planning Policy Framework July 2021 (the Framework) which, amongst other things, require that development does not unacceptably affect the amenity of others, including in relation to invasion of privacy.

Character and Appearance

12. This section of Purfleet Road comprises mainly semi-detached houses of typical inter-war design, on regular plots. Spacing between buildings varies, but the street scene as a whole is relatively built up. There is some soft landscaping within front gardens, alongside some quite extensive areas of hardstanding.

¹ Thurrock Core Strategy and Policies for the Management of Development (as amended) (2015)

Street trees and grass verges provide further soft landscaping and include two street trees in front of the appeal site.

13. The proposed dwellings would be of similar design to the established semi-detached dwellings. They would be set back a similar distance from Purfleet Road and at a similar elevation above the street. Like much of the surrounding development, they would be evenly spaced on regular plots. Although the proposed plots would be narrower than some, the street scene does not have an especially spacious character and they would not look cramped or out of place.
14. The length of most of the proposed rear gardens would fall short of the 12 metres sought by the Council. However, the appellant states that the gardens of plots 5 and 6 would be 12 metres long. While the plans do not confirm exact dimensions, it is clear that there is some variation in garden length and that these two gardens would be longer than those of plots 1 to 4, and broadly in line with the Council's standard.
15. While the treatment of corner sites varies, there are other nearby locations with a comparable level of separation at the rear. Furthermore, the two longer gardens would be closest to Love Lane, and therefore in the most publicly visible part of the site. Therefore, I consider that the layout would provide sufficient space to maintain the character of the wider street scene.
16. The shared parking area would require a fairly extensive area of hard surfacing. Although many of the surrounding dwellings also have extensively paved frontages, they are separated by intervening fences and walls, as well as garden planting. To that extent, the single expanse of hard surface would differ from the established pattern of development.
17. However, the surrounding street scene does not have a particularly verdant character. Garden planting is relatively limited and front boundary treatments are generally low in height. As a result, parked vehicles are already a prominent feature in the street scene. The proposed layout similarly incorporates several modest areas for planting. Subject to the selection of suitable species, capable of becoming established within the areas shown, this would introduce a level of soft landscaping not dissimilar to several of the surrounding front driveways.
18. While I have noted that the site was until recently more extensively planted, the Council's evidence confirms that no protected trees have been removed and no breach of planning control was identified. While I recognise that the appearance of the site will have significantly changed following the removal of vegetation, I have also had regard to the balance between hard and soft landscaping in the wider surrounding area. When considered within this wider context, the proposed layout would not result in an excessive or incongruous area of hardstanding. Nor would it materially increase the extent to which the streetscape is dominated by parked cars.
19. The plans indicate that the street trees and grass verge in front of the site would be retained. Since the trees are already constrained by hard surfaces, and the site is raised above the level at which they are planted, the risk of disturbance to their root systems would be limited. No objective evidence has been presented to suggest that they would be at risk, and they would continue to provide soft landscaping within the streetscape.

20. For the reasons set out above, I conclude that the proposed development would not be harmful to the character and appearance of the area. It would not conflict with Policies CSTP22, CSTP23 and PMD2 of the Core Strategy or relevant paragraphs in the Framework. These policies, amongst other things, require that development meets a high quality of design, responding positively to local character and context, while also optimizing the potential of the site to accommodate development.

Other Matters

21. Although the Council's Officer Report notes the proposed rear gardens would fall below local standards for private amenity space, the site's proximity to a nearby recreation ground is also highlighted. This provides facilities for more active outdoor recreation a short distance away. Therefore, notwithstanding the limited garden areas, I do not consider that future occupiers would lack adequate opportunity for the enjoyment of outdoor amenity space.
22. I have noted issues raised by interested parties about highway safety and traffic, including HGVs. The plans confirm the availability of suitable visibility splays. Given the width of the pavement and verge along Purfleet Road, the proposed dwellings and parking spaces would not obstruct visibility at the junction with Love Lane. Nor would the layout obstruct or otherwise impact surrounding public rights of way. While use of the existing access to Love Lane may be preferred by some parties, that is not the proposal which is before me.
23. The proposed parking provision would be slightly below the minimum standards listed in the Council's Officer Report. However, the Council concluded that this would be acceptable in this location. I noted during my site visit that there is unrestricted parking on several neighbouring side roads. Therefore, the highway network is likely to be capable of absorbing occasional overspill parking without impacting highway safety or causing significant parking stress. Having also taken account of the reasonable level of accessibility to public transport and local services, and the very limited shortfall against standards, I similarly conclude that the proposed parking provision would be acceptable.
24. The layout would not cause an excessive level of noise and disturbance to neighbouring properties, given the established urban context, including traffic noise from the nearby main road. Any disturbance during construction would be for a temporary period only and mitigated by management measures included in the schedule of conditions below. Any damage caused to property during construction would be a private matter between the parties involved.
25. While they will be visible from properties opposite, the scale of the proposed dwellings would not be excessively bulky or overbearing. Since the planning system is concerned with the use of land in the public interest, curtailment of a view from private property would not justify refusal of development.
26. Any issues with fly tipping or anti-social behaviour seem unlikely to persist once the site is no longer vacant. The evidence does not indicate that the site is at risk of flooding or that there are any specific deficiencies in local drainage infrastructure which require mitigation. Provision of appropriate drainage would be required in accordance with the Building Regulations and the regulatory regimes operated by statutory undertakers.

27. Given that I have concluded that the proposal would not give rise to material harm, it would not set a precedent for future harmful developments. In any event, the circumstances surrounding individual sites are rarely identical and any future development would be considered on its merits.

Conditions

28. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity and have omitted others.
29. In addition to the standard timescale condition, I have imposed a condition specifying the approved plans as this provides certainty.
30. I have imposed a condition to secure details of ground and floor levels, to ensure that the relationship between the dwellings and surrounding buildings is consistent with the street scene drawing, taking account of the varied ground levels. These are required prior to commencement, to ensure that ground works are consistent with the approved details.
31. A Construction Management Plan and Waste Management Plan is required to manage the construction process, to manage pollution and protect residential amenity. Approval is required prior to commencement, in order to support management of construction from the outset. I have excluded much of the prescriptive detail suggested by the Council, since these aspects can be incorporated in the submitted Management Plans. However, I have imposed the Council's suggested condition in relation to hours of construction work, in recognition of the proximity of the site to adjoining residential properties.
32. The appellant has provided formal agreement to the two pre-commencement conditions, in the event that the appeal is allowed.
33. I have imposed conditions requiring approval of the external materials and landscaping, in the interests of maintaining the character and appearance of the area. The Council will therefore have the opportunity to ensure selection of trees and shrubs capable of becoming established within the proposed planting areas.
34. The landscaping condition also covers details of hard surface treatments, ancillary structures and tree protection measures, all of which are in the interests of maintaining the character and appearance of the area. I have omitted the Council's suggested references to preserved trees and protection of hedges, since neither is relevant to the proposed development. A separate condition regarding refuse collection arrangements is not necessary, since indicative details are shown on the plans and further details of associated ancillary structures would be required as part of the landscaping scheme.
35. Details of the proposed vehicular access are clearly shown on the plans, so approval of further details is not necessary. The specification of works on highway land would also be subject to separate regulatory control. Since the required visibility splays would be located entirely outside the application site, a condition requiring the appellant to maintain such visibility splays would not be necessary or reasonable. The appellant does not have control over works on highway land and the Highways Authority is in a position to maintain appropriate visibility standards along Purfleet Road.

36. Conditions requiring timely provision of the proposed access, turning areas, footpaths and parking spaces within the site are reasonable and necessary, to ensure that these are available prior to occupation of the dwellings. I have included the prohibition of lockable bollards or similar, to maximise parking availability. However, I have not included provision of loading and unloading areas, since none are proposed.
37. The Framework states that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. In this case, my conclusions about the privacy of adjoining properties are based on the proposed alignment of the rear elevations. Further additions to the rear could harmfully affect the privacy of adjoining occupiers, if they were closer to the boundary and/or at roof level. Therefore, maintaining control over such alterations is justified in this case and I have imposed a condition to that effect. However, there is no clear justification for restricting other alterations, such as single storey outbuildings, which would not have a similar effect on privacy.

Conclusion

38. For the above reasons, I conclude that the proposed development is in accordance with the development plan as a whole, and that there are no other relevant material considerations that would indicate a decision otherwise would be appropriate. Therefore, the appeal should be allowed subject to the conditions set out in the schedule below.

Jane Smith

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 2951-01 Location Plan
 - 2951-02B Block Plan (at 1:200)
 - 2951-02B Block Plan (at 1:250)
 - 2951-03 Plots 1 to 4 Floor Plans
 - 2951-04 Plots 1 to 4 Elevations
 - 2951-05 Plots 5 and 6 Floor Plans
 - 2951-06 Plots 5 and 6 Elevations
 - 2951-07 Proposed Street Scene
 - 2951-12 Existing Plans
 - 2951-14 Existing Site Layout
 - 2951-15 Roof Plans
 - CT-PFR-001 Parking
 - CT-PFR-002 Swept Path Analysis - Entry

3. No development shall commence until details of finished site levels and finished external surface levels, the levels of the surrounding area and adjoining buildings and the finished floor level of the dwellings hereby permitted have been submitted to and approved by the local planning authority. The development shall thereafter be implemented in accordance with the approved details.
4. No development shall take place, including any works of demolition, until a Construction Management Plan and Waste Management Plan has been submitted to and approved in writing by the local planning authority. Demolition and construction works shall thereafter be undertaken in accordance with the approved details.
5. No demolition, building work or deliveries shall be carried out before 8am or after 6pm on Mondays to Fridays or before 9am or after 1pm on Saturdays and not at all on Sundays or Bank Holidays.
6. No development shall take place above damp proof course until samples of all materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented in accordance with the approved details.
7. No development shall take place above damp proof course until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:
 - (a) All species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
 - (b) Finished levels and contours;
 - (c) Means of enclosure;
 - (d) Minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units including any private cycle store, signs and lighting);
 - (e) External surface material for parking spaces and pedestrian accesses.
 - (f) Tree protection measures and details of the proposed management of the retained trees.

All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of any of the dwellings hereby permitted or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping also shall be carried out in accordance with the approved details prior to the occupation of any part of the development.

8. Prior to the first occupation of any dwelling hereby permitted, the proposed accesses, turning spaces and footpaths between the dwellings and the

existing highway, shall be provided in accordance with the details shown on the approved plans and thereafter so retained.

9. Prior to the first occupation of the dwellings hereby approved, the car parking spaces shown on the approved plans shall be delineated on site, made available for use by the occupiers of the dwellings and thereafter so retained. No part of the parking area shall be isolated (by way of lockable bollards or other means) so as to restrict its use by occupiers of the development or their visitors.
10. Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no extensions, roof extensions or rooflights shall be constructed on the rear elevations of the dwellings hereby permitted.

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