



Appeal Decision

Site visit made on 13 December 2022

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2023

Appeal Ref: APP/M3645/W/22/3294534

106 Sunnybank, Warlingham CR6 9SS

- 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 John Hepburn against the decision of Tandridge District Council.
 - The application Ref. TA/2021/1363, dated 22 July 2021, was refused by notice dated 16 December 2021.
 - The development proposed is demolition of outbuildings and residential annexe. Erection of 2 x semi-detached dwellings with associated amenity space, cycle storage, refuse storage, landscaping, and car parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development from the decision notice as it more accurately reflects the proposed development.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area,
 - the living conditions of the occupiers of No 106 Sunnybank, with particular regard to privacy, and
 - whether the proposal would provide appropriate living conditions for future occupiers of the proposed dwellings, with particular regard to the amount of outdoor amenity space and sunlight.

Reasons

Character and appearance.

4. The appeal site is a prominent corner plot of land situated at the junction of the roads known as Sunnybank and Greenhill Lane, and within a predominantly residential area at the edge of the settlement. There is planting alongside Sunnybank on the approach to the appeal site from the north and to the front of No 104 Sunnybank, but few trees on the site itself.
5. The appeal site contributes positively to the character and appearance of the area by providing a sense of spaciousness along the frontage to Sunnybank in

the vicinity of the junction. This is derived from the relatively low heights of the appeal site's boundary fences and buildings, which allow views across it from the nearby roads. Furthermore, the position of the large residential building (Nos 104/106 Sunnybank), on a building line that is set well back from the road, contributes positively to the relatively spacious frontage to this part of Sunnybank.

6. Similar spacings between buildings would remain on either side of the proposed building. The proposed plots would not be significantly smaller than the existing plots within the wider locality. Therefore, the proposed development would not appear cramped in the street scene.
7. However, the position of the proposed building set considerably forward of the building line of Nos 104/106, would be incongruous and it would have a visually dominant and intrusive presence on this highly visible corner plot. Furthermore, in this position it would erode the sense of spaciousness along the frontage to Sunnybank.
8. Although there is some variation in the building line further along Sunnybank on the same side of the road as the appeal site, these are generally smaller scale buildings, including rows of bungalows with forward projecting hipped roof wings of a subservient scale. These buildings are not as prominent in the streetscene as the proposed building would be. Moreover, intervisibility between the bungalows and the appeal scheme is limited, including by the planting to the front of No 104, and the bungalows are not located on a prominent corner plot at a junction. Therefore, they are materially different to the appeal proposal.
9. The proposed removal of the existing front boundary fence would create an open frontage to Sunnybank. However, the height and massing of the fence is not comparable to that of the proposed building, and its removal would not overcome the harm that I have found.
10. Although the appearance and scale of the proposed building would be similar to others nearby, its scale and massing would be considerably greater than the existing frontage fence. Therefore, the incongruity of the position of the proposed building forward of Nos 104/106 Sunnybank would be obvious in the streetscene.
11. Furthermore, given the position of the building and the shape of the appeal site, there would be relatively little space between it and the roads to accommodate substantial soft landscaping to screen or soften views of the proposed building, along with the necessary space for vehicle parking and turning.
12. For these reasons, I conclude that the proposed development would have a significantly harmful effect on the character and appearance of the area. As such, the proposed development would conflict with Policy CSP18 of the Tandridge District Core Strategy (2008) (the "CS"), and Policies DP7 and DP8 of the Tandridge District Local Plan Part 2: Detailed Policies 2014-2029 (Adopted 2014) (the "LP"), which require development, including that on residential garden land, to respect local context and distinctiveness, and maintain the character and appearance of the area in which it is located.

13. I also find the appeal proposal to conflict with Paragraph 130 of the National Planning Policy Framework (2021) (the "Framework"), which requires development to be sympathetic to local character, including the built environment and landscape setting, amongst other objectives.

Living conditions of the occupiers of No 106 Sunnybank

14. The appeal site backs on to the outdoor garden area of No 106. Due to its corner plot position and the configuration of windows within the closest dwelling fronting Greenhill Lane, the garden of No 106 is not currently overlooked to any significant degree by nearby residential properties.
15. Several windows serving bedrooms at first and second floor levels in the rear walls of the proposed dwellings would face the garden area of No 106. The viewing distances from these windows would be relatively short and at a direct angle, more so in the case of plot B, which has the shortest garden. Compared to the existing situation, elevated views looking out from these windows would lead to occupiers of No 106, experiencing a significant loss of privacy in their garden and a perception of being overlooked. This would have a harmful effect on their living conditions.
16. It would not be appropriate for bedroom windows to be fitted with obscure glazing, even to the lower window panes, as this would affect the outlook of the intended future occupiers. Furthermore, it would not overcome the perception of overlooking of No 106 due to the number and closeness of the rear facing windows. As such, it does not justify me reaching a different view on the harm that would be caused by the appeal proposal.
17. The appellant asserts that the situation regarding privacy is no different to other more recent residential developments. However, full details of those developments, including any planning permissions, are not before me, so I cannot be sure they are directly comparable with the appeal scheme before me.
18. For these reasons, I conclude that the proposed development would significantly harm the living conditions of the occupiers of No 106 Sunnybank. As such, the proposed development would conflict with Policy CSP18 of the CS and Policy DP7 of the LP, which require development to avoid significant harm to the privacy of the occupiers of neighbouring properties.
19. I also find the appeal proposal to conflict with Paragraph 130 of the Framework, which requires development to promote well-being and provide a high standard of amenity for existing occupiers, amongst other objectives.

Living conditions of future occupiers

20. The gardens serving the proposed dwellings would be less spacious than many in the locality. However, relative to the accommodation provided within the proposed dwellings, I find that their respective gardens would have sufficient space to establish a seating area for relaxation and socialising, and to accommodate domestic paraphernalia, such as children's play equipment or a barbecue. They would be sufficiently sized to allow domestic activities to take place such as the drying of washing. Although the side and rear garden areas of proposed plot A, would taper in width, I find that their respective shapes would not feel oppressively narrow or unduly compromise their usability for household activities.

21. The evidence does not include a detailed sunlight assessment for the appeal development. Based on my assessment, the gardens of the proposed plots would experience some overshadowing to various extents and at different times of the day as the sun moves through the sky. This is due to the layout and orientation of the proposed development and the presence of nearby buildings, particularly Nos 104/106.
22. However, I find that sufficient sunlight would reach the rear gardens of the proposed dwellings from over the relatively low height flat roofed rear projecting single storey wings at Nos 104/106, particularly during the morning hours. Furthermore, there would be a gap separating the proposed building from Nos 104/106, through which sunlight would reach the rear gardens of the proposed dwellings, particularly when the sun is highest in the sky during summer months.
23. For these reasons, I conclude that the proposed development would provide appropriate living conditions for future occupiers. As such, the proposed development would be consistent with Policy CSP18 of the CS and Policy DP7 of the LP, which require a satisfactory environment for the intended future occupiers of new development, amongst other objectives.
24. I also find the appeal proposal to be consistent with Paragraph 130 of the Framework, which requires development to promote well-being and provide a high standard of amenity for future occupiers.

Other Matters

25. The absence of an objection from the occupiers of No 106, is not determinative and is not a reason to allow a proposal that would be unacceptable.
26. My attention is drawn to an appeal decision for a new dwelling at 19 Chelsham Road¹, Warlingham, which I note is located at the opposite end of Sunnybank to the appeal site. However, that appeal was for a new dwelling on the end of an existing terrace and therefore materially different to the appeal proposal before me.
27. The appellant's concerns over the Council's handling of the planning application are not for me to resolve and should be taken up with the Council in the first instance.
28. In the context of the development plan, I have found that the proposal would conflict with Policy CSP18 of the CS, and Policies DP7 and DP8 of the LP. Although these policies pre-date the current version of the Framework. I have found them to be broadly consistent with the Framework's objectives of ensuring that development adds to the overall quality of an area, is sympathetic to local character and provides a high standard of amenity for existing occupiers. Therefore, I give the appeal proposal's conflict with these policies significant weight.
29. The socio-economic benefits of the appeal proposal are that it would make efficient use of land in a location where development plan policy supports new housing, including on residential garden land, and where there is access to a range of services. It would provide family housing which in turn would generate short term employment opportunities during construction and longer term

¹ APP/M3645/W/19/3241249

benefits through residents supporting the economy. Furthermore, the gardens of the proposed dwellings provide an opportunity to enhance biodiversity. The appellant has brought to my attention that electric vehicle charging points would be provided, and energy and water usage would exceed Building Regulations standards, and a proportion of building materials would be from recycled sources. However, given the scale of the proposed scheme such benefits are small and attract limited weight.

30. Even if I were to agree that the appeal proposal would not give rise to harm with regard to interior space, accessibility, parking provision, bin storage, flooding, contaminated land and heritage assets, these factors are neutral.
31. For these reasons, I find that the proposal would not accord with the development plan when considered as a whole.

Paragraph 11.d)ii. of the Framework

32. The Council is currently unable to demonstrate a five year supply of deliverable housing sites. The appellant contends that the current supply equates to 2.45 years and the evidence before me does not contradict this figure. As such, there is a shortfall against the housing requirement for the area. In these circumstances paragraph 11.d)ii. of the Framework applies and permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
33. I have taken account of the Framework's objective of boosting housing supply, including through delivering housing on small and medium sized sites within existing settlements that can be built-out relatively quickly. Although the proposed development would make efficient use of land for housing and make a small contribution to the housing supply in the area, I have already found that the economic and social benefits attributed to the construction and occupation of the proposed development would be small. Even if the appeal site was previously developed land within the Framework's definition, the weight to be attributed to reusing a small area of such land would be limited. Any benefit from enhancing biodiversity would be relatively small.
34. However, I find there would be conflict with the Framework in so far as the proposal would not add to the overall quality of an area, be sympathetic to local character or provide a high standard of amenity for existing occupiers. Consequently the appeal proposal's adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As a result the proposed development does not benefit from the Framework's presumption in favour of sustainable development.

Conclusion

35. For the reasons given above, I conclude that the appeal proposal conflicts with the development plan as a whole. There are no material considerations of sufficient weight, including the provisions of the Framework, to outweigh this finding. Therefore, the decision should be made in accordance with the development plan and the appeal should be dismissed.

G Sylvester

INSPECTOR