



Appeal Decision

Site visit made on 21 March 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2023

Appeal Ref: APP/M3645/W/22/3292955

Land adjacent to Edenbrook, East Hill, Oxted, RH8 9AE

- 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 Susan Briggs against the decision of Tandridge District Council.
 - The application Ref TA/2021/1949, dated 5 November 2021, was refused by notice dated 3 February 2022.
 - The development proposed is described as 'the erection of a self build dwelling on a parcel of land adjacent to Edenbrook.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with matters of access, appearance, landscaping, layout and scale reserved for future consideration. The drawings submitted with the application were marked as being indicative.

Main Issues

3. The main issues are the effect of the proposed development on a) the character and appearance of the area; b) the living conditions of neighbours; and c) flooding.

Reasons

Character and Appearance

4. The appeal site is situated within a mainly residential area, a short walk from the town centre. It encompasses part of a grassed area with trees and shrubs to its borders. It would be accessed via the driveway to Edenbrook and appears to form part of the wider holding linked to this property, which is a two storey detached dwelling.
5. To the west and north of Edenbrook are the long gardens of the semi-detached houses in Johnsdale. However, these properties do not have as close a physical and visual relationship to the appeal site as the detached dwellings to the east, on Snatts Hill, or indeed Edenbrook itself. These detached dwellings have wider plots than those properties in Johnsdale although No.6 Snatts Hill has a noticeably lesser depth to its rear garden. Whilst the immediate area around the appeal site comprises a mix of dwelling types, sizes and plots, it is the positioning of the houses, the gaps between buildings and their plot sizes that positively contribute to giving the area an open and spacious character.

6. Much of the Council's concerns regarding the character and appearance of the area appear to stem from the nature of the dwelling shown in the submitted drawings. The scale of the proposal is said to result in a cramped development and on this basis the principle of the development is considered unacceptable.
7. Notwithstanding that the site appears to be within a settlement where such development is in principle acceptable, the proposal is in outline with all matters reserved, including appearance, layout and scale. The drawings are clearly marked as indicative and so are not part of the formal proposal and must not be treated as such.
8. The key issue is whether a dwelling could be accommodated on the site in accordance with the relevant policies. The indicative drawings do not, in my opinion, demonstrate this to be the case. They show a dwelling that would look harmfully squeezed, lacking the spaciousness of the immediate area. It would also alter the pattern and grain of development, creating a relatively close back-to-back arrangement with No.6 that would be out of keeping with the distinctive spacious character of the area.
9. Nevertheless, as I have noted, the appellant is not tied to the indicative plans. However, it seems to me that any alternatives in this respect might give rise to other problems in terms of creating a strong contrast to the more generously proportioned dwellings in the immediate vicinity. It is also not clear to me that an alternative would necessarily overcome the concerns regarding the pattern and grain of development. These are legitimate concerns in terms of ensuring the development respects the character and local context in which it would be set.
10. As such, based on the information before me, it has not been adequately shown how the proposal would contribute towards the Council's aims of ensuring new development, amongst other things reflects and respects its character, setting and local context. The proposal does not therefore align with the aims and provisions of Policy CSP18 of the Tandridge District Core Strategy 2008 (TDCS) and Policies DP7 and DP8 of the Tandridge District Local Plan Part 2: Detailed Policies 2014 (TDLP).

Living Conditions

11. The Council has concluded that the position, height and layout of the dwelling shown within the submitted drawings would harm the privacy of the occupiers of No.6 Snatts Hill (also known as Beechbrook).
12. The indicative drawings show a part single storey, part two storey three bedroom house. The dwelling and its position, as shown on the indicative drawings would seem likely to harm the living conditions of the neighbours at No.6. However, as noted above, the proposal is in outline with all matters reserved, including layout and scale. The indicative drawings do not therefore tie the appellant to this particular design or layout.
13. It seems to me that a repositioned dwelling within the appeal site could be erected without having windows on the eastern elevation. However, this in turn could place constraints on the internal layout and outlook, given the proximity of the tree canopies to any built form. The removal of boundary trees might alleviate such concerns, but I am also mindful that any internal levels may

need to be raised to address flood risk issues, which could in turn cause overlooking or other issues in regard to other neighbours.

14. It is therefore not clear, within the scope and context of an outline application with all matters reserved, if the site could be developed for residential purposes without causing harm to the living conditions of residents of existing residential properties around the site. I am therefore unable to conclude on this main issue that it has been adequately demonstrated that the proposal would not cause material harm to the living conditions of occupiers of existing neighbouring residential properties.
15. On this basis the proposal would be contrary to Policy CSP18 of the TDCS and Policies DP7 and DP8 of the TDLP which, amongst other things, seek to ensure new development is appropriate so that it does not harm occupiers of neighbouring properties.

Flood Risk

16. Flooding and drainage concerns about the development of the site have been raised, particularly given the topography of the area and the existence of the brook located near the site. Increased areas of hardstanding and development of the site would inevitably increase the need for appropriate measures to deal with potential flood risk, surface water and foul water drainage.
17. The appellant indicates that since some unspecified anti-flood measures have been put in place and the brook cleared, flooding has not been an issue. The Design and Access Statement (DAS) submitted in support of the proposal indicates that the proposed dwelling would use rainwater harvesting and any additional surface water will run off to the brook. On this basis it is said that water currently running into the water course would be minimised or reduced dramatically.
18. Furthermore, it is stated that the proposed dwelling would be raised to a level comparable with Edenbrook. The need to raise the levels is said to be in response to the site being in Flood Zone 2. However, Environment Agency Standing advice is that development such as a new dwelling within Flood Zone 2 requires a Flood Risk Assessment (FRA). I am not aware that a FRA has been produced in support of the current proposal.
19. A FRA would usually comprise information such as drawings showing finished floor levels above estimated flood levels together with any necessary flood resistance and resilience measures. I have considered whether such matters could be deferred for approval to a later stage. However, a new dwelling in this location should satisfy flood risk concerns as a matter of principle at the planning stage.
20. Although the DAS indicates some measures would be introduced regarding surface water, there is no drainage strategy which would assess such matters as surface water and groundwater impacts. A strategy would be expected to set out the measures that would be used for the site, taking into account issues such as the underlying geology and the effects of climate change. Similarly, there is no information to demonstrate that a discharge rate could be reduced as close as possible to the existing 'greenfield' run-off rate.
21. The local lead flood authority (Surrey County Council) objected on the basis that the appeal proposal contained insufficient information. Again, I have

considered whether this matter could be addressed through conditions, but it is a fundamental issue for the development of the site and thus whether to grant planning permission. Accordingly, it would not be appropriate to resolve this matter through a planning condition.

22. Consequently, it has not been demonstrated that the proposal would make appropriate provision to mitigate flood risk. Based on the evidence before me, I cannot be certain that a technical solution can be achieved, and it would not be appropriate to secure this detailed information by condition. Accordingly, the proposal would conflict with Policy DP21 of the TDLF which, amongst other things, requires proposals to reduce flood risk both to and from the development, or at least be risk neutral.

Other Matters

23. The appeal site comprises a grassed area with trees and shrubs to its borders. At the time of my site visit both it, and the adjoining land appeared to be well managed and looked after. I understand what the relevant ecological policies set out and the Council's wish to assess such matters upfront. However, given the site's context any precautionary approach must be proportionate to the available evidence. There is no indication of any protected species using the site or any site-specific harm that might result from the proposal. On balance I am satisfied that were I minded to allow the appeal, appropriately worded conditions could be imposed to address the issue of the site's ecology and so accord with Policy CSP17 of the TDCS and Policy DP19 of the TDLF which, amongst other things, seek to avoid harm to protected species and important habitat.
24. The dwelling proposes to incorporate a number of environmental measures, and in particular seeks to become a net zero carbon development. Some measures are becoming more common, and some are becoming an obligation under other legislation, so would be required of any development on the site. Whilst such environmental intentions are laudable much of what is proposed seems to be aspirational, with little information, data or evidence to indicate how it would be achieved on this particular site. Nevertheless, I give it a small amount of positive weight.
25. The dwelling is described as being for self-build purposes. The Government attaches importance to the supply of self-build and custom build housing. However, I have not been provided with any details regarding the supply or demand for such housing in the area. Furthermore, there are no details as to how it would be secured were the appeal to be allowed. I am therefore unable to attach weight to this issue.
26. The appellant refers to permitted development rights and the fallback position of constructing an outbuilding on the site to serve Edenbrook. Such rights only exist on land that is residential curtilage, a status which the appellant's statement does not appear to necessarily accept applies to the appeal site. Nevertheless, there is nothing before me to indicate that such a building built under permitted development is anything more than a theoretical possibility. Furthermore, an incidental outbuilding would appear and function very differently from the proposal which is before me. The weight I could therefore attach to this matter would be very limited.

27. The appeal site was purchased separately to the rest of Edenbrook. However, it does not matter whether the development is referred to as an infill development or the development of part of the existing garden of Edenbrook, neither alters my assessment as to the effects in regard to the main issues of the case.

Conclusion

28. The Government's objective is to significantly boost the supply of housing and the proposal would provide an additional dwelling, well located for local services and facilities. The proposal would also accord with the broad support for windfall sites and would represent an efficient use of land.
29. Furthermore, there would be some temporary employment benefits during the construction phase and in the longer-term, future residents may make a more general economic contribution towards supporting services in the surrounding area. There would also be some social benefits arising from the proposal. However, collectively the proposal would add only one dwelling to the supply of housing and therefore all the associated benefits would be small in scale.
30. Conversely, the harms that I have identified would be considerable and therefore worthy of substantial weight. As a result, I do not find the benefits outweigh the harm caused.
31. I find that the appeal conflicts with the development plan taken as a whole. There are no other material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan.
32. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR