



Appeal Decision

Site visit made on 27 March 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th April 2023

Appeal Ref: APP/R3650/W/22/3306904

Land adjoining Tyrolia, High Street, Bramley, Surrey GU5 0HS

- 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 and Mrs Slater against the decision of Waverley Borough Council.
 - The application Ref WA/2021/02729, dated 27 August 2021, was refused by notice dated 9 May 2022.
 - The development proposed is the erection of a detached dwelling with associated parking and amenity space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although the address on the application form is not precise, the submitted site location plan (reference TP 097 12) clearly shows the location of the appeal site. I note that the proposed development is a revision of the previously withdrawn application WA/2021/0036, and that the property known as Tyrolia has been renamed as White Beams. I have referred to the new name in this decision.
3. The appeal submission is supported by an Arboricultural Statement (AS) by RMT Tree Consultancy, and an Ecological Appraisal Report (EAR) by Wychwood Environmental Ltd. The AS expands on the Tree Constraints Plan, Arboricultural Impact Assessment and Tree Protection Plan (collectively the Tree Documents), submitted with the original application. Both the AS and EAR are technical responses to specific reasons for refusal. They do not physically alter the proposed development but seek to clarify elements of that proposed. As all parties have had opportunity to comment on these documents during the appeal process, and with regard to the Wheatcroft Principles¹, I am content that no parties would be unfairly disadvantaged by my consideration of them.

Main Issues

4. The main issues are whether the proposed development would provide acceptable living conditions for future occupiers with specific regard to private outdoor space; and the effect of the proposal on the character and appearance of the area including nearby trees, the living conditions of the occupants of White Beams with specific regard to outlook, and the biodiversity of the appeal site.

¹ Established under *Bernard Wheatcroft Ltd v SSE* 1982

Reasons

Living Conditions – future occupants

5. The garden area of the proposed dwelling would be overlooked by a large first floor window in White Beams, the large detached two-storey dwelling adjacent to the appeal site. It is understood this serves a room currently used as a bedroom. There is nothing before me which limits the use of this room, so it cannot be assumed that this room would only ever be used as a bedroom.
6. The window in question would have unfettered and direct views across most of the proposed garden area, especially that immediately to the rear of the new dwelling. Therefore, this garden area would not provide adequate privacy for future occupants. The other areas of outdoor space proposed are to the front or side of the property and could not be considered private as they would be visible to those accessing White Beams and using the access track.
7. Consequently, the proposal would not provide adequate private outdoor space, so fail to provide acceptable living conditions for future occupiers. This would not comply with Local Plan 2018 (Part 1) (LP) Policy TD1 and Local Plan 2002 (LP2002) retained Policy D4 which, amongst other things, require new development to provide adequate amenity space and seek to maximise opportunities to improve future residents' quality of life.
8. The Council have also referred to LP2002 retained Policy D1, however this policy does not refer to the living conditions of future occupants and so has not formed part of my consideration on this specific issue.

Character and appearance

9. The appeal site is a piece of undeveloped land positioned between White Beams, the Bromley Bowling Green, and the Downs Link footpath, within the settlement of Bromley. It is set back from the High Street down a track which also provides access for several other residential dwellings along with White Beams and the bowling green. The site is open to the access track and there is a fence along the boundary with White Beams, and a hedge along the boundary with the tree lined margin of the Downs Link.
10. The area around the appeal site has a mixed residential character, including short terraces of modest dwellings on Old Rectory Close, and older buildings converted to mews houses along the access track. There are a number of large, detached houses, varying in age and form but, notwithstanding White Beams which has a large garden to the rear, appear to be on reasonably compact plots commensurate to their location within the centre of a settlement. The area is relatively densely developed and in this part of Bramley there is no strong vernacular with a mix of styles, design, and materials reflective of the era each building was built.
11. The proposal would create a two-storey dwelling broadly central to the site, with a single storey element to the rear and parking for 2 vehicles to the front. It would be traditional and functional in form and use materials already in use in the area. The front elevation of the proposal would be similar in dimensions to the gable end of White Beams, with a reasonable gap between. This means the properties would not overwhelm or conflict with each other when viewed from the bowling green and access track. When viewed from the Downs Link the proposed new dwelling would be significantly narrower than White Beams

so would be read in conjunction with it. Therefore, it would form part of the built up back drop to the tree lined margin and not encroach into any open views beyond.

12. The dimensions of the appeal site mean the outdoor space related to the proposed dwelling would not be as substantial as White Beams. It would, however, be proportionally similar to several other properties in the area, where the associated houses are a comparable size to that proposed, both in terms of areas of parking and garden space. The site also includes the area of land on the opposite side of the access to White Beams which would provide additional functional and usable space for the proposed dwelling.
13. The Council consider the centralised location of the proposed dwelling within the appeal site to be out of character, specifically the spacing between the building and the appeal site's side boundaries. However, from the information before me and my observations on site it is evident there is not a regular or dominant pattern to this spacing within the immediate area of the appeal site.
14. The impact of the proposal on trees within the Downs Link margin has been assessed within the Tree Documents, as well as the AS. The main parties agree that the no dig surfacing proposed, and existing soil typology would minimise any impact of the proposal on the physical health of the trees, namely T3 and T4 as identified in the afore mentioned documents.
15. Nevertheless, there is concern that the mature canopies of the trees extending over the appeal site would cause nuisance to future occupants in relation to overshadowing, and thereby pressure to prune the trees in the future would affect the character of the area. However, the trees are not otherwise protected by tree preservation order and along with the appeal site have been removed from the Bramley Conservation Area (CA). They are also positioned to the north-east of the appeal site which would have significantly less impact on overshadowing than structures to the south of the site. Consequently, I am not satisfied that the trees would cause such an effect on future residents that they would automatically require significant future pruning or removal. Equally there are mechanisms available to the Council to ensure the long-term retention of the trees, notwithstanding the outcome of this appeal.
16. It is appreciated that the Inspector within the earlier 2004 appeal (reference APP/R3650/A/04/1146926) had concerns relating to future pressure on the trees regarding the proposal before them. However, it is not clear how dense or numerous the trees were along the bank at that time in relation to the current position, or whether any arboricultural assessments had been undertaken. It is also evident that the decision was made in the context of the appeal site and trees being within the CA, and this is no longer the case. I am therefore satisfied the circumstances between the previously appealed scheme and that which is before me are substantially different to qualify the divergence in conclusions.
17. Consequently, the proposed development would not have a harmful effect on the character and appearance of the area, including nearby trees. It would comply with LP Policies TD1 and NE2, and LP2002 retained Policies D1, D4, D6, D7 and RD1 insofar as they support high quality design which complements its surroundings and maintains existing trees.

Living conditions – White Beams

18. White Beams was under construction at the time of the application. It is now complete but has different fenestration to that shown on the plans, as submitted by the appellant. As observed on site, White Beams has 2 ground floor windows, and 1 large and 3 smaller first floor windows facing the appeal site.
19. The proposal does not seek to alter the fenced boundary between the appeal site and White Beams. As the fence would screen the majority of the single storey element of the proposal, it would not materially alter the outlook from White Beams. The proposed second storey would extend above the fence. However, this part of the proposal would be located to the front of the appeal site and would not be in front of White Beams' ground floor windows, or the large first floor window, thus the outlook from these windows would be maintained.
20. It would be positioned in front of the 3 smaller first floor windows. Nevertheless, these are set well back in White Beams' front elevation some distance from the shared boundary. Due to this the view from these windows would not be so compromised by the proposal as to have a detrimental impact on the living conditions of the occupants of White Beams. It is noted that from the plans submitted by the appellant these windows are unlikely to serve main living spaces.
21. The second storey element of the proposal would be visible from the frontage area of White Beams. However, the outlook from here is already compromised by the boundary fence. This area is also largely functional providing parking and access to the front door, which is positioned in parallel to the appeal site and not facing it. Taking this into account along with the fact much of the open space related to White Beams is to its rear, the impact of the proposal on the outlook from its frontage would not be so detrimental as to harm the occupants' living conditions.
22. Therefore, although the proposal would be visible from White Beams, the effect on outlook would not be so significant as to harm its occupants' living conditions. Accordingly, it would comply with LP Policy TD1 and LP2002 retained Policies D1 and D4 as far as they seek to protect the amenities of existing occupiers of neighbouring properties.

Biodiversity

23. It is noted that interested parties state the appeal site was previously an orchard. Nevertheless, on visiting the site it is now largely bare earth, with the main ecological feature being the hedge along the boundary with the Downs Link. The Surrey Wildlife Trust, as technical advisors to the Council, have taken a precautionary approach based on a desktop study of the site. However, the submitted EAR has taken an equally precautionary position, assuming the use of the site by various species, and its conclusions have been guided by both a desktop and site survey.
24. To that effect the proposed recommendations within the EAR for both mitigation and enhancement, including the retention of the hedge, and undertaking of a Biodiversity Enhancement and Mitigation Plan, could ensure the proposal would have a positive effect on the biodiversity of the appeal site.

25. Accordingly, it would comply with LP2002 retained Policy NE1 insofar as it seeks to retain and protect features of biodiversity interest and ensure any unavoidable adverse impacts are appropriately mitigated.

Other Matters

26. Concerns have been raised in relation to the increased use of the access track and the associated impact on adjacent properties including a listed building, and the setting of the nearby CA. However, the Council have found the proposal acceptable in relation to these matters as well as the appeal site's location within the Green Belt and highway safety.
27. It is appreciated that a new dwelling would slightly increase the number of vehicle movements along the access track. Nevertheless, considering the current number of dwellings which use it, and that it also provides access to the bowling club, the additional vehicle movements would not be so significant as to cause harm to the living conditions of occupants of properties facing the track, or the setting of the listed building or CA.
28. The proposal would provide adequate parking for the new dwelling. The section of access track, the land on the opposite side of the track and the proposed frontage areas within the appeal site would also provide space for the turning of vehicles, should the parking bays be full. Consequently, the level of parking and turning capacity would be appropriate for that proposed and so would not be harmful.
29. My attention has been drawn to a gate at White Beams, however this does not form part of the appeal scheme before me.

Planning Balance

30. The Council have confirmed that its current housing land supply is 4.3 years and there is nothing before me disputing this figure. As the Council cannot provide a 5-year housing land supply it is necessary for me to apply paragraph 11 of the National Planning Policy Framework (the Framework). As there are no policies in the Framework, which protect areas or assets of particular importance, that provide a clear reason for refusing the proposed development, paragraph 11 d) ii), is engaged. This requires that unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, permission should be granted.
31. The proposal would provide 1 new dwelling in an accessible location. The appellant states there is much-need for family homes in the area. Although this has not been evidenced, it is appreciated the proposal would contribute to the overall housing deficit of the borough. It would also have a positive economic contribution during the construction phase and make use of underutilised land within a settlement in the Green Belt, as well as contribute to the biodiversity of the area, as set out in my fourth main issue. Nonetheless, due to the small scale of the scheme, only limited weight can be attributed to these benefits.
32. The lack of harm identified in my second and third main issues, as well as those set out in other matters, are neutral factors and so do not weigh for or against the proposal.
33. However, I have identified significant harm in relation to a lack of private outdoor space, and housing provision should not come at the cost of the living

conditions of future occupants, a position supported by paragraph 130 of the Framework.

34. Therefore, in these circumstances the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.

Conclusion

35. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR