



Appeal Decision

Site visit made on 7 February 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2024

Appeal Ref: APP/M3645/W/23/3324925

1 Loxford Road, Caterham, Surrey CR3 6BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 is TA/2023/83.
 - The development proposed is demolition of existing buildings and erection of three dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed and outline planning permission for demolition of existing buildings and erection of three dwellings with associated access, parking and landscaping is refused.

Application for costs

2. An application for costs was made by Mrs Bettina Neumann against Tandridge District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Notwithstanding the description of development above, the planning application was submitted in outline with all matters other than access reserved for a subsequent reserved matters application. The plans that accompany the outline planning application give indicative details about other aspects of the proposal. I have taken these indicative details into account only insofar as establishing whether it would be possible, in principle, to erect three dwellings on the site with associated access.
4. The National Planning Policy Framework (the Framework) was updated in December 2023, during the course of this appeal. I invited the parties to consider whether the revised Framework had relevance to this appeal and have taken account of the responses received in my decision.
5. I understand the Council is preparing a new Local Plan. I am not aware of the exact stage it has reached or whether its policies will be considered to be consistent with the Framework. Consequently, in accordance with paragraph 48 of the Framework, I give it minimal weight.

Main Issues

6. The main issues are the effect of the proposal on:

- the character and appearance of the surrounding area;
- biodiversity, including the measures necessary to avoid, mitigate or compensate for any negative effects; and
- the living conditions of neighbouring occupiers.

Reasons

Character and appearance

7. The area surrounding the site is residential and suburban and generally comprises detached houses and bungalows in large linear frontage plots. There is a mostly consistent pattern of development along the main roads with occasional cul-de-sacs, some of which include smaller and more densely laid out dwellings than the prevailing grain. Overall, the character of the area is spacious and verdant. The topography is undulating.
8. The Harestone Valley Design Guidance Supplementary Planning Document (SPD) characterises area D within which the appeal site is located as the 'Valley and Eastern Valley Slopes'. The SPD seeks development that relates to the predominant plot and development rhythm in the area. It states that backland development should be avoided where long back gardens or large plots are a key characteristic of the area, such as in area D.
9. Given the dimensions of the appeal site, a backland plot would be inevitable if the site is to accommodate three dwellings with access from Loxford Road. The indicative plan shows a backland dwelling with a front that would face the rear of the frontage plots. This configuration would be unusual and jarring in its context, bearing in mind the pattern of development in the area comprises dwellings that generally face each other across a road or area of public realm, even in the cul-de-sacs.
10. In addition, the proposed access route from Loxford Road would create unusually thin frontage plots relative to most other plots in the vicinity. From the indicative layout, the street-facing elevations of houses on these plots would consequently appear narrow compared to neighbouring dwellings. This would detract from the prevailing grain of development in, and spacious character of, Loxford Road. It would also be materially different from the approved scheme for the appeal site¹, which creates plots and building frontages of comparable width to those nearby, in keeping with the pattern of development in the area.
11. I acknowledge that 1 Loxford Road is one of the larger plots in the neighbourhood and that the area of the subdivided plots would be comparable to that of others nearby, with adequate space for gardens. I also accept it would be possible to position the two houses at the front of the site in accordance with the prevailing building line. However, this does not overcome the incongruity of the overall configuration that would be necessary to accommodate three houses with access from Loxford Road, identified above.

¹ Application reference 2021/2045

12. Similarly, the proposed use of sympathetic and high-quality materials, addition of soft landscaping, and indicative trees shown would not conceal the detrimental effect of the unusually narrow frontage plots and new access road. Therefore, notwithstanding that these are reserved matters, they would do little to mitigate the harm to character and appearance I have found.
13. I recognise that indicative details in the appeal scheme, such as the bulk and mass of the rear unit, seek to reflect aspects of pre-application advice received from the Council. I have also considered the previous dismissed appeal decision for the site², which had regard to pre-application advice previously received. However, both the pre-application advice and previous appeal involved proposals with access from Loxford Close rather than Loxford Road, so are not directly comparable to the circumstances before me. Moreover, pre-application advice is not binding, as clearly stated in the Council's letter dated September 2018 before me. I am required to determine this appeal on its individual planning merits. Consequently, these considerations do not outweigh my finding on this main issue.
14. For the above reasons, I conclude the proposal would have a harmful effect on the character and appearance of the surrounding area. This is contrary to Policy CSP18 of the Tandridge Core Strategy 2008 (CS) and Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 (LPDP), which require high quality design that is in keeping with the prevailing streetscape and respects local context, including features that contribute to local distinctiveness. It is also contrary to Policies CCW4 and CCW5 of the CCWNP, which support development proposals in defined character areas that exhibit design reflecting local context and character, incorporating local design guidance.
15. The proposal is also contrary to the development principles in the Harestone Valley SPD for the reasons set out above. It is also contrary to the Framework, where it seeks development that is sympathetic to local character and recognises the role of local design guides in creating distinctive places with a consistent and high-quality standard of design.

Biodiversity

16. Paragraph 99 of Circular 06/2005 states "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted."
17. The appellant's Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey dated July 2021 (PEA) recommended two additional surveys prior to determination of a planning application. The first was an additional ground-level tree roost assessment because, although none of the trees on the site was observed to have bat habitat value from the ground, the time of year at which the survey was undertaken was not optimal for surveying due to heavy leaf cover. Bats are a protected species. The second was a

² Appeal reference APP/M3645/W/21/3287596

Phase II botanical survey because the site includes good quality semi-improved grassland, which is a Habitat of Principal Importance; and the extent to which it would be affected by proposed development was not known at the time.

18. Neither of these recommended additional surveys is before me. In addition, the PEA is over two years old and does not take account of the outline proposal that is the subject of this appeal. Whilst the appellant's Bat Emergence and Re-entry Survey dated August 2021 (BER) did not recommend further surveys of the existing house prior to determination of a planning application proposing its demolition, that report is also over two years old. The Surrey Wildlife Trust (SWT) notes in its advice on the appeal scheme, having regard to the BER, that bats move roost sites frequently, so unidentified bat roosts may still be present in the building. It therefore advises a precautionary approach.
19. Consequently, the evidence before me is not sufficiently comprehensive and up to date for me to be certain about the presence or otherwise of protected species, or the extent to which they may be affected by the proposed development. No exceptional circumstances have been demonstrated such that the required surveys could be left to coverage by a planning condition, notwithstanding the appellant's willingness to accept this approach. Therefore, I am not satisfied the requirements of Circular 06/2005 have been met. For the same reasons, I cannot be sure what measures would be necessary to avoid, adequately mitigate or, as a last resort, compensate for any significant harm to biodiversity, as required by paragraph 186 of the Framework.
20. In the previous appeal decision for the site³, dated January 2023, the Inspector found that any harm to habitats could be suitably mitigated through measures that he was satisfied could be secured by condition. The Inspector made a partial award of costs to the appellant in relation to this finding. I am not aware of all the detailed evidence and advice that was available to that Inspector when he reached his conclusion on the issue of biodiversity. I have had regard to the specialist advice provided to the Council by the SWT in March 2023, which post-dates that appeal and is specific to the scheme before me. There is no substantive evidence to persuade me that this specialist advice is incorrect or not relevant. I therefore give it considerable weight.
21. I acknowledge the Council's Tree Officer is satisfied an Arboricultural Impact Assessment and Arboricultural Method Statement could be secured by condition and dealt with at reserved matters stage. However, that advice does not take account of the effect on biodiversity resulting from loss or harm to trees, so does not alter my finding on this main issue.
22. For the above reasons, I conclude the proposal does not adequately demonstrate the effect on biodiversity, including the measures necessary to avoid, mitigate or compensate for any negative effects. This is contrary to Policy CSP17 of the CS and Policy DP19 of the LPDP, which require development proposals to protect biodiversity and incorporate measures to mitigate or compensate for harmful impacts. It is also contrary to Circular 06/2005 and paragraph 186 of the Framework.

³ Appeal reference APP/M3645/W/21/3287596

Living conditions

23. The indicative layout plan shows a dwelling close to the site boundary with 3 Loxford Road. The precise layout of the new dwelling, and the location of windows and elevations in relation to the neighbouring garden and windows, would be considered at reserved matters stage. This consideration would include potential mitigation measures to address concerns with overlooking, taking account of the varying land levels, that might include boundary treatments and/or use of privacy measures such as obscured glazing. I am therefore satisfied the outline proposal before me has the potential to allow for a form of development that would not result in significant harm to the living conditions of the occupiers of No 3.
24. For the above reasons, I conclude the proposal would not have a harmful effect on the living conditions of neighbouring occupiers. Accordingly, I find no conflict in this respect with Policy CSP18 of the CS and Policy DP7 of the LPDP, which require development not significantly to harm the amenities of the occupiers of neighbouring properties. I also find no conflict with the Framework, where it seeks a high standard of amenity for existing users.

Other Matters

25. The development would create two additional dwellings that could be built relatively quickly and within walking distance of Caterham town centre. This would contribute to the supply of housing in the area and to the local economy through occupiers' use of local services and facilities. This accords with the Framework where it seeks to increase the supply of housing, including on small sites in urban areas, and to support economic growth. However, the Framework's support for effective use of land is not at the expense of safeguarding and improving the environment. With this in mind, and given the modest scale of the proposed development, I ascribe limited weight to these benefits.

Planning Balance

26. Although I have found no harm to the living conditions of neighbouring occupiers, I have found the development conflicts with Policies CSP17 and CSP18 of the CS, Policies DP7 and DP19 of the LPDP and Policies CCW4 and CCW5 of the CCWNP. This means there is a conflict with the development plan, read as a whole.
27. The Council accepts its current five-year housing land supply stands at under two years, which represents a significant shortfall. In these circumstances, paragraph 11(d)(ii) of the Framework states 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.
28. The harm resulting from the conflict with the development plan as a whole also results in conflicts with the Framework for the reasons given above. In this case, the harms affect the character and appearance of the surrounding area and biodiversity, to which I attribute substantial weight. The weight of these harms significantly and demonstrably outweighs the limited weight of the benefits of the development identified in other matters, when assessed against the policies in the Framework as a whole.

Conclusion

29. I have found the development conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter

INSPECTOR