



Appeal Decision

Site visit made on 20 February 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2024

Appeal Ref: APP/L3625/W/23/3321864

Workshop to the rear of 5 Waterhouse Lane, Kingswood, Surrey KT20 6EB

- 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 James Draper against the decision of Reigate and Banstead Borough Council.
 - The application Ref 22/01862/F, dated 25 October 2022, was refused by notice dated 20 December 2022.
 - The development proposed is to demolish the existing warehouse and replace with a new brick-built building, incorporating a bin store, a cycle store and 3 carports to the ground floor and 2 two-bedroom first floor flats. To demolish the existing block of 4 terraced lock up storage garages and clear area to make 4 tarmac parking spaces.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have shortened the description of development from that contained on the planning application form to provide a more concise summary of the proposal.
3. The National Planning Policy Framework (the Framework) was updated in December 2023, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes. Neither main party were asked for their views and no parties have been prejudiced as a result.

Main Issues

4. The main issues are:
 - The effect of the proposal upon the character and appearance of the area.
 - The effect of the proposal upon the living conditions of neighbouring occupiers with particular regard to daylight, privacy and outlook.
 - The effect of the proposal upon the living conditions of future occupiers with particular regard to outlook, privacy and access to outside space.
 - Whether the proposal would be appropriately located with regard to flood risk and the sequential test.

Reasons

Character and appearance

5. The appeal site is located directly to the rear of 5 Waterhouse Lane, which sits within a 3-storey terrace of commercial units with some residential accommodation on the upper floors. The rear of the terrace at 5-8 Waterhouse Lane comprises an area of hardstanding accommodating garages, parking spaces and storage units, accessible via a private access road located between 4 and 5 Waterhouse Lane. The appeal site itself is occupied by a single storey storage unit and shipping container adjacent. To the very rear of the appeal site is a line of lock up storage units. The commercial parade faces open countryside to the south, with the rear hardstanding area also being largely open; any existing buildings to this rear area are no more than a single storey.
6. The appeal scheme involves the replacement of the storage unit and container with a 2-storey building containing a small warehouse and 3 garages at ground floor, with two 2-bedroom flats at first floor. The 4 garages to the north of the site would be demolished and replaced by 4 tarmac parking spaces. The proposed building would occupy a footprint spanning the entire plot width and a greater depth than the current warehouse. It would be set back slightly at first floor to the south and west elevations.
7. My attention has been drawn to a previously dismissed appeal¹ for a similar proposal. Whilst I acknowledge that the height of the proposed building has been reduced by one storey compared to the previous appeal scheme, its footprint remains similar. The Inspector at the time considered that the building would project into the courtyard by a substantial amount and found it would erode the established sense of spaciousness to the rear, dominating the space. There are some rear projections to the buildings at 3 and 4 Waterhouse Lane to the west of the appeal site, but these do not project as far into the rear yard area as the current or previous appeal proposal. The previous Inspector commented that these projections are relatively short and connected to the main building, and I agree with the Inspector's assessment that as such they have a more limited impact upon the open area to the rear of the parade.
8. Despite the reduction in bulk and mass over the previous appeal scheme, given the proposed footprint and disconnection from the main building, the proposal would still have the effect of eroding the sense of spaciousness to the rear courtyard area and would be an overly dominant feature in the space. The form of development would appear cramped in relation to the plot size, in contrast to the open nature of the land surrounding Waterhouse Lane.
9. The proposal runs contrary to Policy CS4 of the Reigate and Banstead Core Strategy 2014 (CS) and Policy DES1 of the Reigate and Banstead Local Plan – Development Management Plan 2019 (DMP). Taken together, and amongst other things, these policies require new development to respect the character of the surrounding area, having due regard to the layout, density, plot sizes, building siting, scale, massing and height.

Living conditions of neighbouring occupiers

10. There are residential flats to the upper floors of the shopping parade which is located directly to the south of the appeal site. Notably, the first floor flat at

¹ Reference APP/L3625/W/21/3267441 dated 21 September 2021.

No. 5 Waterhouse Lane has a kitchen window which would sit directly opposite one of the proposed first floor flats. The building to the other side of the access road, 4 Waterhouse Lane, is set slightly further away and comprises flats at part ground floor and on the upper floors. These flats have windows to habitable rooms in the side elevation directly overlooking the appeal site.

11. The presence of built development immediately opposite residential windows at first floor where there is currently an open outlook would have a harmful impact on the current outlook from the first-floor flats at 4 and 5 Waterhouse Lane. The bulk and proximity of the proposed building to existing residential windows would result in harm to the currently open outlook from habitable rooms of the current flats.
12. Whilst the windows in the south and west elevations of the proposed flats would be obscure glazed and it would be difficult to directly look into neighbouring windows, the relationship with the existing residential windows would be unneighbourly. It would result in a perception of being overlooked for the current occupiers of the affected flats.
13. Given the height and relative position of the proposed building, it is likely that some material loss of sunlight and daylight would result to the east facing windows at 4 Waterhouse Lane. No substantive evidence has been provided to demonstrate that appropriate levels of daylight and sunlight would be retained by these windows. Whilst the north facing window to the kitchen of the first floor flat at No. 5 would not be materially affected by loss of sunlight, I consider that due to the proximity and bulk of the proposed building, a material loss of daylight to the kitchen window is likely to occur.
14. As such, I conclude that the proposal would harm the living conditions of the occupiers of the flats at 4 and 5 Waterhouse Lane having regard to matters of outlook, privacy, daylight and sunlight. In this respect the proposal would conflict with Policy DES1 of the DMP, which requires new development to not adversely impact upon the amenity of occupants of existing nearby buildings.

Living conditions of future occupiers

15. The flat to the south side of the proposed building would have a highly restricted outlook. Whilst I acknowledge the appellant has sought to address the issue of privacy, as a result, both bedrooms would be served by obscure glazed windows with a fanlight opening above 1.7m. Consequently, there would only be a single clear-glazed window with a reasonably open outlook serving the flat. The outlook to the northernmost flat would be moderately open to the living room and main bedroom, although the second bedroom would be served by an obscure glazed window to protect the privacy of No. 4 Waterhouse Lane. Due to the presence of obscure glazing, I do not find that the future occupiers would have a sense of being overlooked, but this would be to the detriment of the outlook from the proposed flats.
16. Neither flat would have any direct access to either private or communal outdoor recreation space. The Council identifies that the nearest public open space is 0.7km from the site, with the nearest play area being 1.6km away. Whilst the distances are not significant, I do not consider they represent readily available access to outdoor space sufficient to offset the lack of provision at the appeal site.

17. Taken together, the issues described above have the effect of not achieving suitable living conditions for future occupiers due to the lack of direct access to outdoor recreation space and the poor outlook from the flat to the south side of the building. The proposal would conflict with Policies DES1 and DES5 of the DMP. Amongst other things, these policies require new development to provide an appropriate environment for future occupants and provide adequate outdoor amenity space.

Flood risk

18. The Council has identified that part of the appeal site is within an area with a 1 in 30-year risk of surface water flooding. The remainder of the site is within an area judged to be at 1 in 100-year risk. Paragraph 165 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing it away from areas at highest risk. Paragraph 167 requires a sequential approach to the location of development, taking into account the potential and future risk of all sources of flooding to avoid, where possible, flood risk to people and property. The aim of the sequential test is to steer development to areas with the lowest risk of flooding from any source. Policies CCF2 of the DMP and CS10 of the Core Strategy are consistent with this approach, requiring a sequential test for development in areas with a medium or high risk of flooding.
19. As the appeal proposal would create new residential accommodation on a site partly designated as having a 1 in 30-year risk of surface water flooding, a sequential test is required.
20. The previously refused planning application and subsequently dismissed appeal did not reference flood risk as a reason for refusing the proposed development at the time. However, the decision on this appeal scheme must necessarily be based on the current national and local guidance. This guidance is clear that a sequential test is required. Without it, there is insufficient evidence to demonstrate that the appeal scheme complies with the aims of Policies CS10 of the Core Strategy and CCF2 of the DMP, along with requirements of the Framework to ensure development is appropriately located with regard to flood risk.

Planning Balance and conclusion

21. The appeal scheme would provide housing in a sustainable location, contributing to the Council's housing stock. Furthermore, the appeal proposal would involve the redevelopment of an existing small, brownfield site, for which there is both local and national policy support. There would also be some modest economic benefits arising from the commercial element of the scheme and from new residents using local services.
22. However, the harm I have identified to the character and appearance of the area, the living conditions of neighbouring and future occupiers, along with the inappropriate location with regard to flood risk, outweighs the identified benefits. As such the proposal is contrary to the development plan read as a whole. The material considerations in this case do not indicate that the decision should be taken otherwise than in accordance with the development plan. The appeal should therefore be dismissed.

L Francis INSPECTOR