



Appeal Decision

Site visit made on 16 August 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 OCTOBER 2024

Appeal Ref: APP/M3645/W/23/3329914

Land to the rear of Station Road East, Easting: 539490, Northing: 152892

- 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 Stewart Charlett of Blades Heating Ltd against the decision of Tandridge District Council.
 - The application is Ref TA/2022/1299.
 - The development proposed is Erection of 2 dwellings, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 dwellings, parking and landscaping, at Land to the rear of Station Road East, Easting: 539490, Northing: 152892 in accordance with the terms of the application, Ref TA/2022/1299, subject to the conditions within the attached schedule.

Application for Costs

2. An application for costs has been made by Mr Stewart Charlett of Blades Heating Ltd against Tandridge District Council and is the subject of a separate decision.

Preliminary Matter

3. The National Planning Policy Framework (the Framework) was updated in December 2023, and accordingly for the purposes of this decision I have referred to the latest version of the Framework. The content of the Framework has not been materially altered in respect of the main issues which I have considered. Therefore, it has not been necessary to seek further views from the main parties in this instance.
4. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
5. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023, and any reference to paragraph numbers are to this version.

Main Issues

6. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the living conditions of the occupiers of dwellings on Amy Road with particular regard to outlook; and
- whether the future occupiers of the proposal would have acceptable living conditions.

Reasons

Character and appearance

7. The site is accessed from a route to the rear of the properties on Station Road East. These properties are in commercial use at ground floor, often with residential flats on the upper floors. Immediately to the rear, the properties have servicing areas. The rear of the appeal site is bounded by the gardens of detached and semi-detached properties fronting Amy Road. Further to the east of the appeal site is a large public car park, reflective of the site's town centre location.
8. Other than a single storey garage building, the site is free from built form. Several substantial trees that are the subject of a Tree Preservation Order (TPO) line the site and positively contribute to the character of the area. However, as a disused former car park, the remaining empty areas of the appeal site do not positively contribute to the character of the area.
9. The proposal's width and height would not mirror the built form of the nearest properties on either Amy Road or Station Road East. However, as a result of the appeal site's isolated rear location it would not be viewed in the immediate context of these properties.
10. The lower height of the proposal would be an appropriate design response reflective of its location to the rear of the larger high street properties and behind the gardens of historic houses fronting Amy Road.
11. Whilst the proposal would be wide, it would be positioned away from the site's rear and front boundaries. When viewed from the front or rear, a large proportion of the appeal site would remain free from built form, and consequently the proposal would sit comfortably within its plot.
12. The proposal's external design would have a simple, traditional appearance with low eaves, roof-level accommodation, horizontal weatherboarding and facing brickwork. The gable feature and dormer windows would provide architectural interest.
13. Although the proposal would result in the loss of some on-site trees, it has been designed to ensure the protection and retention of the mature TPO trees, which make the greatest contribution to the character of the area. The proposal's set back from the front of the site, also enables sufficient space for soft landscaping (which would be secured through condition) to provide defensible space, and to soften the setting of the built form.

14. The proposal would be visible from public viewpoints around the site, and private views from neighbouring properties. Given their limited height, the retention of TPO trees, and having regard to the site's town centre location, they would not appear as especially dominant additions within the street scene.
15. In this regard, the proposal would successfully assimilate with the built context, and I note that Paragraph 135 of the Framework states that developments should be sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change such as increased densities.
16. Accordingly, I find no conflict with Policy CSP18 of the Tandridge District Core Strategy (2008) (CS) or Policy DP7 of the Tandridge Local Plan Part 2: Detailed Policies (2014) (LPP2). Taken together these seek, amongst other things, high quality design which integrates effectively with its surroundings, reflecting local distinctiveness and landscape character.
17. I also find no conflict with paragraph 135 of the Framework which requires that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Living conditions of neighbouring occupiers

18. The Council and interested parties indicate that the proposal would not achieve the 14 metre or 22 metre minimum separation distances outlined within Policy DP7(7) of the LPP2. However, the policy is clear that these separation distances are used in assessments of impact on privacy, and not for assessing the proposal's impact on outlook. Whilst there is no formal test identified to assess the impact on outlook and a subjective assessment is required, during my site visit I was able to view the proposals from the area adjacent to the shared boundary with the properties on Amy Road.
19. The submitted evidence indicates that 6 Amy Road is the closest neighbouring property, being positioned 8.4 metres from the shared boundary and 12.7 metres from the proposal's closest elevation. The other properties on Amy Road which adjoin the appeal site would be between 16 and 18.5 metres from the proposed building.
20. I note that some properties on Amy Road have additional ground floor rear projections which bring their closest windows nearer to the appeal site. However, in order to reduce its height and bulk, the upper storey of the proposed building would be within the roof. Its eaves line would also not be particularly high and its rear roof would pitch sharply away from the nearest residential properties. Furthermore, the properties on Amy Road are positioned on higher ground than the appeal site. The site section drawing demonstrates that the proposal's roof would not reach above the first floor of neighbouring dwellings, which assists in reducing its visual impact.
21. Furthermore, a generous proportion of the site would not have any two storey buildings on it. These remaining spaces would provide car parking, communal space and external amenity areas which would help to visually break up the built form of the building on the site and would provide clear physical separation. This would minimise the development's impact on neighbouring occupiers and prevent it from appearing cramped and overbearing.

22. Whilst it would have a greater visual impact, when viewed from rear windows and gardens on Amy Road, than the existing situation, the appeal building would not be overly oppressive to the extent that it would significantly harm the level of outlook for occupiers of surrounding properties. In coming to this view, I have taken into account the proposed height and elevational design of the proposal.
23. For the above reasons, I conclude that the proposed development would not harm the living conditions of neighbouring occupiers, with particular reference to outlook. Accordingly, I find no conflict with Policy CS18 of the CS and Policy DP7 of the LPP2. Amongst other aspects, these seek development that does not significantly harm the amenity of neighbouring properties. I also find no conflict with the principles of the Framework that seek the creation of places that are safe and have a high standard of amenity for existing and future users.

Living conditions of future occupiers

24. Unit A would have a rear garden, which would be 7.2 metres in depth and 47 square metres in area. It would not be especially constrained and would provide sufficient space for a common range of garden accessories, such as furniture and a washing line. In the absence of any specific amenity space standards, I find that the size of the garden would not be unreasonably small or impractical for future occupiers. The new gardens would experience limited overlooking from properties on Amy Road. However, a degree of mutual overlooking between properties and gardens is common within a residential area such as this, and this factor would not prevent the gardens from being attractive spaces for future occupiers.
25. At ground floor level the units would be triple aspect, with large glazing opening onto the rear gardens. This would provide a good level of outlook for future occupiers. At first floor level the bedrooms would have appropriately sized windows providing unrestricted outlook for future occupiers. Within the rear elevation, rooms are served by a series of rooflights and a small window within a gable. However, these would serve bathrooms and stairwell areas, from which future occupiers are unlikely to expect unrestricted views.
26. The rear of properties on Station Road East are in use as servicing areas and also provide access to residential properties on the upper floors of these buildings. Whilst the neighbouring properties are taller in height, the appeal proposal would be set back from the highway behind a generously sized defensible space, which would include landscaped boundary planting. This would provide additional separation from the neighbouring properties, and would screen views towards the servicing area and access road.
27. The proximity to servicing areas would not be a particularly unusual situation for properties within a town centre location. Furthermore, whilst my site visit was a single snapshot in time, I noted that the area to the front of the site, including the servicing area was not busy with comings and goings. Overall, I am not persuaded that people living here would find that the living environment was oppressive.
28. For the reasons outlined above, I find no conflict with Policy DP7 of the LPP2, which requires that proposals provide a satisfactory environment for the occupiers of new developments. The proposal would also comply with

paragraph 135 of the Framework which require developments to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

29. Concerns have been raised about a loss of privacy and natural light to occupiers of properties on Amy Road. Given the separation distances, as Amy Road properties are located on higher land than the appeal site, and as the proposed first floor rear windows would not supply habitable rooms, I do not find harm to the living conditions of neighbouring occupiers.
30. In relation to concerns related to landscaping and the loss of trees and bamboo planting on the site boundary, I have imposed conditions which require the submission of details of soft landscaping, which will include further planting, and a condition to ensure that protection measures for trees shall be undertaken.
31. Concerns have been raised in relation to construction noise, car parking, access and safety implications in the area during construction. I have sympathy for existing occupiers as development of this nature would inevitably give rise to some disruption. However, the works would be time limited, and it would not be reasonable to withhold consent on this basis alone. I have also imposed a condition requiring the submission of a Construction Traffic Management Plan which will identify measures to mitigate the impact of construction works.
32. Concerns have been raised in relation to the impact on the natural habitat for wildlife, birds, and insects. In order to mitigate harm to local wildlife a condition is imposed requiring that an ecological enhancement plan is submitted. Interested parties indicate that they have observed bats locally. However, I have not been provided with substantive evidence which would prompt me to disagree with the Council's conclusions on this matter, which was that, given the findings of the specialist advisor and the evidence that has been provided, the proposal could not reasonably be refused for this reason.
33. In relation to concerns about ground levels, I have imposed a condition requiring the submission of existing and resultant ground levels of the external areas and the finished floor levels of the buildings.
34. Interested parties state that the proposal would harm highway safety, increase local traffic and result in a loss of car parking. The appeal proposal provides a net increase of two dwellings which would result in a very limited increase in local traffic. The addition of the dwellings within a residential area is unlikely to cause harmful noise and disturbance as a result of the additional comings and goings, or recreational use of the properties by future occupiers and visitors.
35. A number of other matters have been raised by interested parties and I have taken them all into account. This includes matters such as the impacts on local crime and light pollution. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to these matters.

Conditions

36. I have had regard to the planning conditions that have been suggested by the Council. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and for clarity and consistency.
37. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty.
38. Conditions related to external materials, tree protection measures and soft and hard landscaping are necessary in the interests of the character and appearance of the area.
39. I have imposed the suggested conditions related to vehicle parking layouts and cycle storage in the interests of highway safety and to encourage sustainable transport. A condition requiring the submission and implementation of an ecological enhancement plan is imposed to deliver local ecological enhancements. A condition requiring details of external lighting is necessary to prevent harm to protected species.
40. In order to minimise disruption to surrounding highways and residents it is necessary to approve a Construction Transport Management Plan. I have imposed a condition related to contamination in the interests of the living conditions of existing and future occupiers. A condition requiring the implementation of measures set out within the Energy Statement is necessary to help reduce carbon dioxide emissions.
41. I have not imposed the suggested condition requiring the provision of electric vehicle charging points as the PPG sets out that compliance with other regulatory requirements, such as the Building Regulations, will not meet the test of necessity and may not be relevant to planning.
42. Given the small size of the site and relationship with surrounding buildings, I agree in the particular circumstances of this case that a condition which withdraws some permitted development rights for further extensions including outbuildings for the new dwellings is necessary. However, I have combined the Council's two conditions into a single condition in the interest of brevity.

Conclusion

43. For the above reasons, and having had regard to all other matters raised, I conclude that the proposed development would accord with the development plan and the Framework. The appeal is therefore allowed.

B Pattison

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans: BH2208-03; BH2208-01/B and the site location plan.
- 3) No development shall take place until details of the existing and resultant ground levels of the external areas and the finished floor levels of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a detailed tree protection plan and detailed arboricultural method statement, in full accordance with sections 5.5 and 6.1 of BS5837:2012 Trees in relation to design, demolition and construction - Recommendations [appropriate and specific to the approved scheme], to include details of all works within the root protection area, or crown spread (whichever is greater) of any retained tree and arboricultural supervision and monitoring of these works, has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, all works shall be carried out in accordance with the approved details and shall not be varied without the written consent of the Local Planning Authority.
- 5) No development shall take place until a Construction Transport Management Plan (CTMP), has been submitted to and approved by the Local Planning Authority. Thereafter, the approved CTMP shall be implemented and adhered to throughout the entire construction period.
The CTMP shall include details of:
 - (a) parking and turning for vehicles of site personnel, operatives and visitors
 - (b) loading and unloading of plant and materials
 - (c) storage of plant and materials
 - (d) measures to prevent the deposit of materials on the highway
 - (e) on-site turning for construction vehicles.
- 6) No development shall take place until an ecological enhancement plan, including a timetable for any works, has been submitted to and approved in writing by the Local Planning Authority. All approved ecological enhancements shall be undertaken in accordance with the approved plan and timetable.
- 7) The development shall not progress above the damp proof course of the new houses until details of the materials to be used on the external faces of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) No trees or hedges shall be pruned, felled or uprooted during site preparation, construction and landscaping works except as shown on the documents and plans hereby approved. Any retained trees or hedges which within a period of 5 years from the completion of the development die, are removed, or, in the opinion of the Local Planning Authority, are dying,

becoming diseased or damaged shall be replaced by plants of such size and species as may be agreed in writing with the Local Planning Authority.

- 9) The development shall not be occupied until a scheme of hard and soft landscaping, a timetable for undertaking the works, and details of any means of enclosure have been submitted to and approved in writing by the Local Planning Authority. Subsequently, the installation of all elements of the hard and soft landscaping and all means of enclosure shall be undertaken in full accordance with the approved timetable. Any soft landscaping that dies or is damaged within 5 years of its provision shall be replaced with soft landscaping of the same size and species.
- 10) The development shall not be occupied until details of secure and covered parking for a minimum of 1 bicycle per dwelling with a charging point for e-bikes have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be installed prior to occupation of the dwellings and shall be retained and maintained thereafter.
- 11) The development shall not be occupied until the measures to serve the dwellings to reduce energy usage or improve energy efficiency set out within the Energy Statement (prepared by Arcadian Architectural Services and dated 04/10/2022) have been installed. Those fittings and installations shall be retained at all times thereafter.
- 12) The development shall not be occupied until space has been laid out within the site in accordance with the approved plans for 4 vehicles to be parked and for vehicles to turn so that they may enter and leave the site in a forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- 13) No external lighting shall be installed at the site unless details of any such lighting has first been submitted to and approved in writing by the Local Planning Authority.
- 14) In the event that contamination is discovered during development, full assessment thereof should be undertaken and any necessary modifications made to the remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Before any part of the development hereby permitted is occupied, written confirmation should be provided that all works have been completed in accordance with the revised remediation scheme.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no further extensions or alterations or outbuildings to the new dwellings hereby permitted shall be erected under Schedule 2, Part 1, Classes A, AA, B, C and E without the prior permission of the Local Planning Authority.

END OF SCHEDULE