



Appeal Decision

Site visit made on 30 October 2024

by **N Perrins MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 January 2025

Appeal Ref: APP/L3625/W/24/3345050

37 The Avenue, Tadworth, Surrey KT20 5DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Adam Weldin against the decision of Reigate and Banstead Borough Council.
 - The application Ref is 23/01357/F.
 - The development proposed is three detached new build homes within vacant and derelict land rear of 37 The Avenue, with existing access down Lothian Wood.
-

Decision

1. The appeal is dismissed and planning permission for three detached new build homes within vacant and derelict land rear of 37 The Avenue, with existing access down Lothian Wood is refused.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. I have not considered it necessary to invite observations from the main parties as regards any relevance as it does not raise any new considerations in relation to this appeal.
3. I understand that the proposal was subject to pre-application discussions and have seen evidence of the advice provided by the Council within the appeal submissions. This is contrary to what it says in the officer's report, which based on the information presented in this appeal would appear to be a typographical error. However, whilst I am aware of the pre-application advice provided by the Council, I have assessed the appeal scheme before me on its own merits.
4. The appeal proposal was amended various times during the planning application process to make changes such as reducing the scale and height of development. For the avoidance of doubt, I have determined this appeal against the most recently submitted drawings.

Main Issues

5. The main issues are the effect of the proposed development on:
 - (i) The character and appearance of the area;
 - (ii) The living conditions of No 37 The Avenue, having particular regard to light and overshadowing; and

(iii) Biodiversity.

Reasons

Character and appearance

6. The appeal site comprises garden land to the rear of No 37 The Avenue, which is a large, detached property. The site is within The Tadworth: Avenue Residential Area of Special Character (RASC). To the east of the site is Lothian Wood, which is a cul-de-sac of detached dwellings. The prevailing character of the area comprises detached dwellings within landscaped and spacious plots with properties set back from the road.
7. Development within the RASC is subject to Policy DES3 of the Reigate and Banstead Development Management Plan 2019 (DMP). Policy DES3 states that, amongst other criteria, planning permission may be granted if the height, scale, depth, elevations and massing of development respects the form of neighbouring buildings and character of the RASC. Policy DES3 also requires that the proposal does not involve the inappropriate sub-division of existing curtilages to a size below that prevailing in the area.
8. In terms of the proposed plot sub-division, the three dwellings would be laid out in linear form within individual plots accommodating separate rear garden areas, set back from the road, landscaping, access and parking, which are all characteristics of the pattern of development within the RASC. The proposed plot sizes would be smaller than those prevailing in the RASC as a whole.
9. However, the appeal site is located on the edge of the RASC designation and protrudes southwards between areas of higher density development including the adjacent Lothian Wood. Whilst this adjacent higher density development sits outside the RASC designation, the appeal site would front onto Lothian Wood and form part of that street scene as opposed to one within the RASC itself. The site's contribution to the overall spacious plot size character within the RASC is, therefore, comparatively limited when considering the site-specific circumstances and relationship with immediately surrounding higher density development.
10. Furthermore, the plot sizes and spacing between dwellings along Lothian Wood are comparable and not materially different to that proposed by the appeal development. Accordingly, the proposed plots, spacing between dwellings and layout would not look out of place when viewed in the appeal site's immediate context. Therefore, and given that the proposed plots and layout would relate to and be seen primarily within the street scene of Lothian Wood rather than within the RASC, I find that they would not be inappropriately small or result in any material harm to the overall character and appearance of the RASC. The principle of the sub-division to provide three dwellings on the appeal site as laid out on the proposed plans is, therefore, acceptable and not materially in conflict with the requirements of Policy DES3 in this regard.
11. However, the dwellings would appear as ostensibly three storey dwellings due to the height of the development and multiple windows and rooms proposed in the roof. This would contrast markedly with the prevailing two storey character of dwellings in the RASC and along Lothian Wood. Whilst there are some frontage windows and small dormers evident in the roofs on nearby properties, they are mainly subservient and infrequent features within the area's roof scape.

12. In this case, each property would have at least two second floor windows that when read together with the height of the buildings would result in an uncharacteristically top-heavy and bulky appearing roof form that would accentuate the excessive scale of the development within the site. The roof form including proliferation of windows and overall height would, therefore, result in the dwellings appearing as an overdevelopment of the site that would detract from the character and appearance of the RASC and street scene of Lothian Wood.
13. Moreover, the frontages of the dwellings would be dominated by hard surfacing with very little soft landscaping proposed. The soft landscaping proposed along the frontage would appear to comprise only small shrubs to the edges of the hard surfacing. This would not sufficiently soften the much larger areas of open hard surfacing proposed, which would remain the overwhelmingly dominant landscape feature when viewed within the street scene. The frontages to the dwellings would, therefore, have a stark and overly hard urban form that would accentuate the over developed appearance of the proposal and detract from the character of the area. This contrasts with the character and appearance along Lothian Wood and in the wider RASC, where frontages mainly have a verdant landscaped appearance that ensures hard surfaced parking areas do not dominate.
14. I have considered the appeal decision brought to my attention by the appellant at the nearby site, 35A The Avenue¹. However, the main issue in that appeal related to retention of slate tiles on the roof and did not consider the impact of frontage landscaping or second storey windows. As such, the previous Inspector's conclusions for the development at No 35A are not directly comparable to this appeal and do not provide justification for the harm I have identified.
15. With regard to other aspects of the proposed design, the dwellings would display traditional surrey vernacular that would reflect the overall character of the area. The individual dwellings would have sufficient variation in their use of materials, which is consistent with the approach required within Policy DES3.
16. To conclude, the combination of the roof design and excessive amount of frontage hard surfacing would result in the site appearing as over developed and detract from the character and appearance of The Avenue: Tadworth RASC and Lothian Wood. Accordingly, the proposal is contrary to Policies DES1, DES2 and DES3 of the Reigate and Banstead Development Management Plan 2019 (DMP). The proposal is also not consistent with the requirements of Paragraph 135 of the Framework, which seeks to ensure development will add to the overall quality of the area, visually attractive as a result of good architecture, layout and appearance and effective landscaping, and sympathetic to local character.

Living Conditions

17. As I observed on my site inspection, the rear of No 37 is south facing with its ground floor rooms spread across the full width of the property with extensive ground floor glazing. No 37 would, however, retain a large garden area with a separation distance of over 13 metres between the dwelling and nearest flank wall of Plot 1. The footprint of Plot 1 is also smaller than No 37 that along with the separation distance and garden area retained would help to ameliorate any impacts from overshadowing to No 37's ground floor windows or garden area. I also note

¹ Appeal Ref: APP/L3625/W/21/3277481

that the separation relationship between Plot 1 and No 37 would be similar to that of the nearby and adjacent dwellings at Nos 35 and 35A, the latter of which was granted planning permission by the appeal decision referred to earlier in this decision.

18. Finally, the appellant has provided information in the appeal papers that indicates, in any event, the impact of Plot 1 on No 37 in terms of overshadowing would not materially conflict with the Council's guidance set out in the Householder Extensions & Alterations Supplementary Planning Guidance 2004 (SPG).
19. Bringing all these matters together, I am satisfied from the information before me and my observations from my site inspection that there would not be material harm to the living conditions of No 37 sufficient to justify refusing planning permission on this issue. Accordingly, the proposal accords with Policy DES1 of the DMP, which requires development to provide an appropriate environment for future occupants whilst not adversely impacting on the amenity of occupants of nearby buildings. However, finding no harm on this issue is a neutral factor in this appeal and does not outweigh the harm identified in terms of the impact of the character and appearance of the area.

Biodiversity

20. The appellant provided a Preliminary Ecological Appraisal to support the planning application. The PEA demonstrates that an assessment of the ecological conditions of the site was undertaken. This included finding that there would be no harm to any protected species alongside implementation of specific mitigation measures.
21. However, the Surrey Wildlife Trust (SWT) having reviewed the PEA identified that in their view there were limitations in the information provided for badger, bat and reptile as well as whether the proposed development would result in a measurable net gain in biodiversity. The SWT response also disagreed with the findings with regards to great crested newts with a conflict identified between the PEA's conclusion on the number of ponds within 500m of the site and data held on MAGIC mapping. SWT duly requested further information to be provided prior to determination of the planning application to address the issues raised.
22. Due to the timing of the SWT's response being made available and the Council's decision to refuse planning permission, the requested further information has not been provided. However, the species identified are protected in law and as such the impacts on them do need to be satisfactorily resolved before concluding the proposed development accords with the relevant planning policies. It is likely that further information required could involve updated surveys to further assess the identified species, which as advised in Circular 06/2005 should only be required by condition in exceptional circumstances. Based on the information before me, there are no exceptional circumstances in this case that would justify requiring updated surveys by condition.
23. Whilst I have considerable sympathy with the appellant for the timings of the SWT response being made available to them, I conclude that I must apply the precautionary principle and find that based on the information before me the proposal could result in harm to protected species and biodiversity. As such, the proposal does not include sufficient information to demonstrate the development is acceptable in terms of biodiversity and not in conflict with Policy NHE2 of the DMP.

The proposal also conflicts with the requirements of the Framework that seek to protect and enhance biodiversity, and the legal obligations placed upon me.

Other Matters

24. Objectors have raised additional concerns in relation to parking provision, increased traffic congestion, noise and disturbance, flooding, drainage and sewage capacity, highway safety, loss of protected trees and neighbouring residential amenity beyond the site and construction impacts. However, having reviewed the information before me and my observations from my site inspection, I have no reason to take a different view to the Council's in respect of these elements.

Conclusion

25. For the reasons given above, the proposal is not consistent with the policies of the development plan as a whole and there are no material considerations that would lead me to a different conclusion. I conclude that the appeal should be dismissed.

N Perrins

INSPECTOR