



Appeal Decision

Site visit made on 30 April 2025

by **H Miles BA (hons), MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 JUNE 2025

Appeal Ref: APP/M3645/W/24/3356643

4 Landscape Road, Warlingham, Surrey CR6 9JB

- 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 Vita Group London against the decision of Tandridge District Council.
 - The application Ref is TA/2024/810.
 - The development proposed is erection of a single family dwelling house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are
 - The effect of the proposed development on biodiversity with particular regard to biodiversity net gain (BNG).
 - The effect of the proposed development on the living conditions of the neighbouring occupiers with particular regard to overlooking to Treelands.

Reasons

Biodiversity Net Gain

3. BNG is a mandatory requirement of Schedule 7A of the Town and Country Planning Act 1990 (TCPA) (as inserted by Schedule 14 of the Environment Act 2021). However, certain planning permissions including for self-build and custom build development are exempt from the BNG requirement. The appellant has set out that the proposed dwelling would be self-build.
4. The appellant was invited to submit a planning obligation to secure the dwelling as self-build housing, but this has not been submitted. I understand that a CIL self-build exemption claim form has been submitted to the council. This expresses the intention for the property to be self-build but does not secure that it is implemented in this way. A condition is also suggested, however a condition requiring occupation by the person who built the dwelling for 3 years would not be enforceable and therefore would not pass the tests and cannot be attached. Consequently, I do not have any mechanism that ensures that the proposed house is constructed and occupied in this manner. As such, based on the submissions in this case, the appeal scheme would not ensure that this property would be self-build. Therefore, this BNG exemption would not apply in these circumstances and the development would be subject to the statutory BNG condition.

5. The minimum information required by Article 7(1A) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) has not been submitted. Consequently, I do not have sufficient information to conclude that appropriate BNG could be secured. As such, the exemption to BNG would not apply and there is insufficient information to conclude that the BNG condition is capable of being successfully discharged.
6. Therefore, the proposed development would not have an acceptable effect on biodiversity with particular regard to BNG and would not be in accordance with Schedule 7A of the TCPA, as set out above and policy CSP17 of the Tandridge District Core Strategy (2008) (CS) which seeks to provide for the maintenance enhancement, restoration and, if possible, expansion of biodiversity.

Living conditions

7. Treelands is adjacent to the appeal site. It has a broadly L shaped garden, with a section that runs to the rear of the appeal site and outbuildings along this boundary. This garden is around 1m lower than the land at 4 Landscape Road. It also has a swimming pool which appears to be located approximately in line with the rear of the property. There is planting along the boundaries at present, as well as single storey outbuildings along the appeal site's southern boundary. Treelands is surrounded by other residential plots and whilst these are generally detached houses in large grounds, the houses and their gardens are not remote with some mutual overlooking.
8. The proposed house would be roughly aligned with the front and rear elevation of Treelands. Seven windows are proposed to the first-floor rear elevation. Three would serve a dressing room and bedroom (bedroom 1) located a minimum of around 11.5m from the boundary, with four set back a minimum of around 18m from the boundary serving a bedroom, bathroom and stairwell. Aside from the main bedroom windows, these could all be conditioned to be obscure glazed. Four rooflights are proposed at second floor, to a living/study area associated with the master bedroom, a media/hobby room and a landing, with the windows to the landing obscure glazed.
9. The windows to bedroom 1 would be closest to Treelands. Due to the angle, there would be no views towards the property itself, and views to the south and the garden area closest to Treelands and the swimming pool would be at an obscure angle and therefore limited. There would be new views to the northern part of the garden area, although these would be partly screened through the existing and proposed planting to both sides of the shared boundary and at some distance away. It follows that the impact from the proposed windows sited further away would be even less. Furthermore, a large part of the garden to Treelands, including the part that immediately adjoins the dwelling, would be at a distance and angle of view from any proposed windows that it would not lead to a loss of privacy. Taking all the above into account, the proposed development would not lead to a level of overlooking which would be unacceptably harmful to the privacy of the occupiers of Treelands.
10. There would be 43m between Pitchers Copse and the proposed dwelling, with 10m between the proposed dwelling and the rear boundary which has substantial planting. Taking into account this separation distance between the dwellings and

the part of the garden that immediately adjoins Pitchers Copse, there would not be unacceptable overlooking to this property.

11. The proposed development would share the existing access with 4 Landscape Road, and the limited increase in comings and goings associated with a single new dwelling would not lead to unacceptable noise and disturbance to the properties close to this access road.
12. As such, the proposed development would not result in harm to the living conditions of the neighbouring occupiers with particular regard to overlooking to Treelands. Therefore, the proposed development would be in accordance with Policy CSP18 of the CS and Policy DP7 of the Tandridge Local Plan: Part 2- Detailed Policies (2014). Together these require that the proposed development would not significantly harm the amenity of neighbouring properties including with regard to privacy. Nevertheless, the lack of harm in this regard is a neutral matter that does not weigh in favour of the appeal.

Other Matters

13. The Council cannot demonstrate a 5-year supply of deliverable housing sites, and the appellant states that it has a 1.5 year supply. Consequently, the presumption in favour of sustainable development contained within paragraph 11 d) of the National Planning Policy Framework 2024 (Framework) would be engaged. This requires that planning permission be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies within the Framework taken as a whole having particular regard to key policies.
14. The appeal scheme would provide one new dwelling in an urban area where there is a shortfall in the delivery of housing, along with the associated social and economic benefits of this provision. It would therefore direct development to a sustainable location. Nevertheless, taking into account the scale of the development, this results in modest benefits.
15. On the other hand, for the reasons set out above the important biodiversity requirements have not been met and therefore the proposed development would have an unacceptable effect on biodiversity. As such, it would not add to the overall quality of the area and would not secure a well-designed place. Furthermore, taking into account the importance of securing well designed places, overall, the development would not be an efficient use of land.
16. Even taking into account the extent of the undersupply, these important adverse effects would significantly and demonstrably outweigh the modest benefits set out above when assessed against the Framework taken as a whole and having particular regard to key policies. Consequently, the presumption in favour of sustainable development would not apply in this case.

Conclusion

17. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

H Miles INSPECTOR