



Appeal Decision

Site visit made on 20 November 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Appeal Ref: APP/M3645/W/24/3340289

14A Harestone Hill, Caterham, Surrey CR3 6SX

- 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 R White (Harestone Homes Ltd) against the decision of Tandridge District Council.
 - The application Ref is TA/2023/1405.
 - The development proposed is new detached dwelling, associated parking and landscaping to the rear of 14A Harestone Hill.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have had regard to the Written Ministerial Statement and draft National Planning Policy Framework (the Framework) published on 30 July 2024. Whilst national policies relating to housing land supply are proposed to change as part of this consultation, these changes can only be given limited weight at this stage. Even if the proposed changes were to be accepted, it would not materially affect the outcome of my decision since I have identified conflict with the development plan in respect of other main issues. Therefore, in this instance it has not been necessary to consult the parties on these changes.

Background and Main Issues

3. The effect of the proposal on biodiversity was not raised in the Council's reasons for refusal. However, the Surrey Wildlife Trust (SWT) has identified potential for protected species to be present on the site and recommended further surveys prior to determination of the application. I gave the parties the opportunity to comment on the implications of this for the appeal and have considered their responses. I am satisfied there would be no procedural unfairness in elevating this matter to a main issue.
4. Consequently, the main issues are the effect of the proposal on:
 - the character and appearance of the site, existing house and surrounding area;
 - the living conditions of neighbouring occupiers, with particular reference to outlook and privacy; and
 - biodiversity and the measures necessary to avoid, mitigate or compensate for any negative effects; and

- whether living conditions for future occupiers would be acceptable, with particular reference to external amenity space.

Reasons

Character and appearance

5. 14A Harestone Hill is a two-storey house of modest proportions located at one end of a long, rectangular plot that slopes up to Colburn Avenue to the rear. The appeal site comprises the rear section of this plot, which forms a gap between the existing dwellings at 21 and 23 Colburn Avenue. Owing to the topography, Colburn Avenue properties are at a notably higher level than the host dwelling. Homes in Colburn Avenue are mostly detached, two-storey houses of varied, traditional appearance, although No 23 is a bungalow. The urban grain in the surrounding area is relatively tight and regular.
6. The appeal site is in the Harestone Valley Special Residential Character Area (HV). Policies DP7 and DP8 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 (TLP2) and Policy CCW5 of the Caterham, Chaldon and Whyteleafe Neighbourhood Plan 2021 (NP) require development proposals in such areas to address Design Guidance adopted as a Supplementary Planning Document (SPD).
7. Having regard to the HV Design Guidance SPD, factors that contribute to the distinctive character of the area include its undulating topography and the subservience of buildings to landscape. To maintain the character and quality of the HV, the SPD seeks forms of development that respect their location and the size of the site, have building heights that relate to the existing topography, and bear a positive relationship to surrounding development.
8. The proposed house would have two visible storeys on its Colburn Avenue frontage but, because of the gradient and proposed excavation of a basement, it would have three storeys at the rear. This would dominate the modest rear proportions of the host dwelling and those to either side of it. The scale, bulk and height at the rear of the house would also be out of proportion with the relatively short plots created from subdivision of the host site, and this would not be overcome by boundary planting or restricting future loft conversion.
9. In addition, the inclusion of a basement would fail to respect the topography of the site: it would contravene the HVDG SPD principles that buildings should generally step down slopes with each house located at a different level, that retaining walls should be avoided, and that development on sloping sites should generally have not more than 2.5 storeys.
10. These detrimental effects on the size of the site, local topography and surrounding development would diminish the character and quality of the HV.
11. I recognise the proposal would fill a gap in Colburn Avenue and its front elevation would be broadly compatible in building line, scale, roof form and design with the character of that street. Spacing to either side of the new house would also be generally commensurate with prevailing layouts in Colburn Avenue. However, these factors do not outweigh the harm I have identified from the proposed scale, bulk and height at the rear of the development.
12. For the above reasons, I conclude the proposal would have a harmful effect on the character and appearance of the site, existing house and surrounding area.

This is contrary to TLP2 Policies DP7 and DP8 and NP Policy CCW5 Policy for the reasons outlined. It is also contrary to Policy CSP18 of the Tandridge Core Strategy 2008 (CS) and NP Policy CCW4, which together require development to respect local context and character, including those features that contribute to local distinctiveness; have regard to the topography of the site; and not result in unacceptable intensification by reason of scale, bulk or height.

13. Further, the proposal is contrary to Framework paragraph 139, which states development that is not well designed should be refused, especially where it fails to reflect local design policies, taking into account local design guidance and SPDs such as design guides and codes. The Framework also notes the important role of neighbourhood planning groups in identifying the special qualities of each area.

Living conditions of neighbouring occupiers

14. Given the difference in levels, the combined scale, bulk and height at the rear of the proposed dwelling would be overbearing to the occupiers of 14A Harestone Hill, when viewed from their rear windows and garden. The evidence before me is not sufficiently convincing to persuade me that boundary planting between the plots would effectively mitigate this detrimental effect. For the same reason, there would also be moderate harm to outlook from the bottom of the rear garden of 21 Colburn Avenue.
15. There is also no compelling evidence to demonstrate occupiers of No 14A would be sufficiently protected from overlooking from upper floor rear habitable room windows in the new house, bearing in mind the sloping site, even if the dwellings would be separated by 22 metres. The fact that No 14A is occupied by the appellant is of little consequence, as the living conditions of all future occupiers of the premises must be considered irrespective of ownership.
16. The relationship between the rears of 23 Colburn Avenue and 16 Harestone Hill is not directly comparable to that between the appeal scheme and No 14A, because those properties are sited at an angle to each other, with less direct alignment of habitable room windows. The difference in levels between those dwellings is also less marked than on the appeal site.
17. For the above reasons, I conclude the proposal would have a harmful effect on the living conditions of neighbouring occupiers, with particular reference to outlook and privacy. This is contrary to CS Policy CSP18 or TLP2 Policy DP7, which resist significant harm to the amenities and privacy of neighbouring occupiers by reason of overlooking or overbearing effect. It is also contrary to the Framework, where it seeks a high standard of amenity.

Biodiversity

18. The appellant's Preliminary Ecological Appraisal (PEA) found low to negligible potential for reptiles to occur on the proposed development site. However, after reviewing the PEA at application stage, the SWT found suitable reptile habitats might be present, based on photographs included in the report. It also found nearby residential gardens did not completely rule out the presence of common reptiles, particularly slowworm. The SWT therefore advised reptile presence/likely absence surveys were required prior to determination of the application.

19. Slowworm are protected under the Wildlife and Countryside Act 1981. All native reptiles are listed as rare and most threatened species under Section 41 of the Natural Environment and Rural Communities Act (2006).
20. 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 the 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."
21. No reptile presence/likely absence surveys of the site are before me. During my visit I observed the appeal site was relatively overgrown and unkempt. I am therefore unpersuaded by the appellant's argument that the site is a well-kept residential garden with no realistic prospect of harbouring protected species. Bearing in mind the precautionary principle, I cannot be sure on the evidence before me that protected species are not present.
22. I am also not able to consider any measures necessary to avoid, adequately mitigate or, as a last resort, compensate for any significant harm, as required by paragraph 186 of the Framework. No exceptional circumstances have been demonstrated such that the required ecological survey could be left to coverage by a planning condition. Consequently, the requirements of Circular 06/2005 have not been met.
23. For the above reasons, I conclude the proposed development does not adequately demonstrate the effect on protected species and the measures necessary to avoid, mitigate or compensate for any negative effects. This is contrary to CS Policy CSP17, which requires development proposals to protect biodiversity, as well as to Circular 06/2005 and the Framework.

Living conditions of future occupiers

24. TLP2 Policy DP7 requires the provision of amenity and garden areas proportionate to the size of the residential unit and appropriate for the intended occupiers.
25. Although the proposed garden area for the new house would be smaller than most in the surrounding area, I nevertheless find it would be adequate to meet the day to day needs of a family-sized household, such as sitting out, hanging washing and play space for smaller children.
26. I therefore conclude living conditions for future occupiers would be acceptable, with particular reference to external amenity space, and I find no conflict with TLP2 Policy DP7.

Other Matters

27. I note there was a previous permission¹ for a dwelling on the site. However, I have no substantive evidence to indicate that permission is extant such that it could be built out were the appeal to be dismissed. Moreover, on the evidence before me, the rear of that proposal was less dominant in scale and bulk than

¹ Ref TA/2007/1263

the appeal scheme and did not read as a three-storey dwelling. I therefore give it little weight as a fallback position.

28. The Council is satisfied in relation to highway safety and trees and, on the evidence before me, I see no reason to disagree. Nonetheless, an absence of harm in these regards does not weigh in favour of the development. The required contribution towards infrastructure is also a neutral factor.
29. I appreciate the appellant sought pre-application advice following concerns raised about a previous withdrawn application. Be that as it may, the current proposal would still result in harms to character and appearance and the living conditions of neighbouring occupiers for the reasons I have already outlined.

Planning Balance

30. Although I have found no harm to the living conditions of future occupiers of the proposed dwelling, the harms I have identified in relation to the first three main issues result in a conflict with the development plan read as a whole.
31. The Council is unable to demonstrate a five-year housing land supply so paragraph 11d) of the Framework is engaged.
32. On the evidence before me², the shortfall in housing delivery is substantial. The provision of one dwelling would make a small contribution to reducing this and the Framework recognises the role of suitable small sites in meeting the housing requirement of an area, and that they are often built out relatively quickly. However, while promoting the efficient use of land, the Framework also requires decisions to take account of the desirability of maintaining an area's prevailing character and setting, including residential gardens, which in built up areas are excluded from its definition of brownfield/previously developed land. I have also noted above the Framework's support for local design policies and guidance, particularly when reflected in a neighbourhood plan. Taking all this together, I give the delivery of one dwelling in this case only moderate weight.
33. There would be an economic benefit from construction and future occupiers' use of local services and facilities, but as only one dwelling is proposed this benefit would have limited weight. The modest proposed landscape and biodiversity enhancements would add a little weight in favour of the scheme.
34. Together, the level of harm to character and appearance, the living conditions of neighbouring occupiers, and biodiversity would be considerable. I ascribe these harms significant weight, such that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits described above, when assessed against the policies in the Framework taken as a whole.

Conclusion

35. I have found the proposal 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

² Appeal decision APP/M3645/W/22/3309334