



Appeal Decision

Site visit made on 15 August 2023

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9th November 2023

Appeal Ref: APP/M3645/W/22/3312532

51 Stafford Road, Caterham CR3 6JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Raymonde Wilson, Onsite Developments Design and Construction Limited against Tandridge District Council.
 - The application Ref TA/2022/28 is dated 18 March 2022.
 - The development proposed is proposed three storey building with accommodation within roof space and underground parking, comprising 6 x 3 Bed, 7 x 2 Bed and 1 x 1 Bed apartments.
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Decision

1. The appeal is dismissed and outline planning permission is refused.

Preliminary Matter

2. The planning application was made in outline with all matters except access, appearance and layout reserved for a subsequent reserved matters application.
3. Whilst "scale" is a reserved matter for a subsequent application, "appearance" and "layout" which, together, include the external form of the development and the way the building, routes and open spaces will be situated are not reserved matters. Consequently, the indicative plans submitted show a form of development which is unlikely to be significantly varied at the point of submission of a future reserved matters application.
4. The Council has confirmed that it cannot demonstrate a five-year housing land supply. Therefore, necessarily I have made my determination in the context of paragraph 11d of the National Planning Policy Framework (2023) ("the Framework").

Main Issues

5. Although the appeal is against non-determination, the Council has given the reasons why planning permission would have been refused had the application still been within its remit to determine.
6. On this basis, the main issues in this appeal are:
 - the effect of the proposal on protected species;
 - the effect of the proposal on highway safety, with regard to the adequacy of the car parking provision and the potential for the displacement of vehicles on to the public highway;

- the effect of the proposal on trees surrounding the site;
- the effect of the proposal on the character and appearance of the surrounding area; and
- the effect of the proposal on the occupiers of 47 and 53 Stafford Road with particular regard to loss of privacy, outlook and daylight and sunlight.

Reasons

Protected species

7. The Surrey Wildlife Trust (SWT) comment that the western boundary of the site merges into an area of woodland habitat, within which it is possible that reptiles such as slow worms are present and may have colonised the appeal site in small numbers. Slow worms are a protected species under the Wildlife and Countryside Act (1981).
8. Paragraph 175 of the Framework advises that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less than harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
9. A survey report by a qualified ecologist is not included within the submitted evidence. In the absence of such an assessment it is not possible to confidently ascertain that there are no slow worms within the site.
10. The appellant has indicated that a condition could be imposed requiring submission of a survey. However, the Office of the Deputy Prime Minister Circular 06/2005 states that 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 planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
11. I therefore consider that insufficient information has been provided to determine whether or not the proposal would be harmful to protected species, contrary to Policy CSP17 of the Tandridge District Core Strategy (2008) (CS) and Policy DP19 of the Tandridge District Local Plan Part 2: Detailed Policies (2014) (TLP). These policies, amongst other things, seek to conserve and enhance biodiversity and promote nature conservation and management.

Highway safety

12. TLP Policy DP7 states that proposals should have regard to the adopted parking standards and not result in additional on-street parking where this would cause congestion or harm. The Tandridge Parking Standards Supplementary Planning Document (2012) (SPD) outline a requirement for 1.5 allocated spaces to serve each 1 and 2 bedroom flat and 2 unallocated spaces for each 3 bedroom flat. This would generate a requirement for 24 spaces across the whole development. The submitted drawings show that there would be a shortfall of 3 spaces against this standard.
13. On my visit, which I acknowledge is a snapshot in time, I experienced the surrounding parking areas on Stafford Road to be fairly heavily parked in the early afternoon on a weekday. Noting the shortfall in the number of parking

space provided, the demand from the occupiers of the new residential units would increase the existing levels of parking stress. Increased parking demand in instances of limited supply may lead to additional congestion as drivers seek parking spaces, or park illegally, which would be detrimental to highway safety. There is little evidence to suggest that such circumstances could be avoided by the appeal proposal.

14. I have not been provided with further details to demonstrate how the parking layout could be amended to include the provision of three additional car parking spaces. As access and layout are not reserved matters it would not be appropriate in this instance to impose a planning condition requiring the parking layout to be amended.
15. For the above reasons, I conclude that the proposal would harm highway safety, with regard to the adequacy of the parking provision and the potential for the displacement of vehicles on to the public highway. I therefore find that it conflicts with Policy CSP12 of the CS, Policies DP5 and DP7 of the TLP and Policy CCW5 of the Caterham, Chaldon and Whyteleafe Neighbourhood Plan 2021 (CCWNP). Collectively these policies require that proposals have regard to the SPD, and that proposals do not result in additional on-street parking where this would cause congestion or harm to highway safety.

Trees

16. There is a large Spruce tree located to the south of the appeal which, due to its size and prominence, makes a positive contribution to the character of the area. Given the tree's location and significant height it seems likely that its roots may be present within the part of the appeal site which would undergo substantial excavation works.
17. Neither an Arboricultural Impact Assessment (AIA) or an Arboricultural Method Statement (AMS) have been submitted, and no further details have been provided to demonstrate how potential harm to the tree could be mitigated. In the absence of such information, it has not been demonstrated that the health of the tree would be safeguarded.
18. Whilst the planning application was validated without the submission of an AIA and AMS, a planning condition to secure this additional information would not be appropriate. This is because the assessment of an AIA and AMS are fundamental to establish the potential impact on the tree, and the acceptability of these impacts, before any planning permission is granted.
19. For the above reasons, I conclude that it has not been demonstrated that the proposal would not have a detrimental impact on the health of the tree. I therefore find that it conflicts with Policy CSP18 of the CS and Policy DP7 of the TLP. The policies, amongst other things, require that development has regard to important trees or groups of trees and other important features that need to be retained.
20. The proposal would also conflict with the aims of the Tandridge Trees and Soft Landscaping SPD (2017) which seeks to ensure that trees are adequately considered throughout the development process.

Character and appearance

21. The site comprises a detached two-storey dwelling located on the west side of Stafford Road. The site is on a steep slope rising up from the road such that the house is located considerably higher than the road.
22. The surrounding area is characterised by detached dwellings which are generally one or two storeys in height, and set within generously sized plots, often defined by mature planting on the front and side boundaries. To the rear, the land rises steeply, and a line of mature trees is visible behind properties. This positively contributes to the area's pleasant, spacious and green character.
23. The description of development describes the building as three storeys in height, however, the indicative drawings show a building which would have four storeys of accommodation, with the top floor contained within a gabled roof form. Whilst the drawings are illustrative of one particular way of developing the site, given the confirmed number of 14 units and that the building will be at least three storeys in height, it is clear that the building would be noticeably taller than the adjoining neighbouring properties.
24. The submitted layout drawing, which would be a fixed parameter, indicates that the building's footprint would be expansive, extending across much of the site's width, and projecting significantly further to the rear than the neighbouring properties. The building's likely height, when combined with its width would mean that the proposal would have a significantly larger mass and overall proportions than neighbouring properties on this side of the road. Given the minimal set back from the site's side boundaries, the proposal would appear as a cramped form of development.
25. The minimal distance from the boundaries would also erode the site's sense of spaciousness. This is despite the 'structured screen landscaping' shown on the submitted drawings, which would be developed in further detail under a reserved matters application. In addition, the majority of views of the raised land and belt of trees to the rear are likely to be screened by the development, thereby having a harmful urbanising effect on the area. The rear section of the proposed layout would step away from the boundaries. However, this would not provide any visual relief when viewed from Stafford Road.
26. The layout indicates that the proposal would have a large basement car parking area. The expanse of brickwork to the front of the basement, despite the indicated landscaping, would be visible in public views and would increase the proposal's urbanising effect.
27. I acknowledge that there is a large flatted development opposite the appeal site. However, this is two storeys in height and sited on land which is lower than the public highway which it fronts. In contrast, the elevated position of the appeal site would serve to increase the prominence and bulk of the proposal.
28. During my site visit I noted the blocks of flats within the southern part of Stafford Road. Buildings in this area are generally constructed closer to the highway, with less planting and green space. The area is also significantly closer to the town centre, and has a more built up character than the area surrounding the appeal site. As a result, the three storey buildings are not

directly comparable. Therefore, their existence, does not lend weight to the proposal.

29. Although the submitted plans are indicative, I acknowledge the appellant's desire to take design cues from the surrounding area, including with reference to materials and gable features. I also acknowledge that the building may have lower scale elements closer to the site's side boundaries. Nevertheless, these design features would do little to reduce the significant bulk and visual impact of the proposal.
30. Overall, I conclude that the proposal would result in a cramped form of development constituting overdevelopment of the site, which would be harmful to the character and appearance of the area. This would be contrary to Policy CSP18 of the CS, Policies DP7 and DP8 of the TLP and Policies CCW4 and CCW5 of the CCWNP. Collectively, these seek amongst other things, high quality design which integrates effectively with its surroundings, reflecting local distinctiveness and landscape character.
31. I also find conflict with the principles set out within paragraph 130 of the Framework which require developments that are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Living conditions

32. The application seeks approval for the site layout, including the footprint of the building. As a result, the parameters relating to the layout of the proposal including its width and depth would be fixed.
33. In respect of privacy, the proposal would be at least three storeys in height and due to the number of units and the need to provide light and ventilation, would likely introduce elevated windows serving habitable rooms and balconies closer to neighbouring properties. At present, occupants at 47 Stafford Road (No 47) enjoy reasonable levels of privacy in the direction of the appeal site by reason of the limited built form there, together with the established separation distance between the dwellings.
34. The proposal in all likelihood, despite its stepped layout, would allow views from both the front and rear elevations, towards existing habitable rooms within No 47, whilst the upper floor rear windows would allow views of the property's rear garden. As such, the occupants of No 47 would experience a loss of privacy as a result of the proposed development. This would also have the effect of hampering the enjoyment of the rear garden, which at present benefits from a reasonable level of privacy.
35. In respect of levels of daylight and sunlight, the nearest windows serving habitable rooms are located at No 47. These are rear facing but are positioned close to the shared boundary with the appeal site. Whilst the layout of the rear of the proposal is stepped, based on the likely significant change to the scale and position of built form at the appeal site, as explained above, the proposal would result in a harmful loss of light to the occupants of that property. There is insufficient evidence before me to demonstrate that appropriate levels of daylight and sunlight would be maintained here.
36. Occupants at No 47 would also experience a change to their outlook as a result of the proposal, visible both from their rear facing windows and garden. However, the occupants of the property would retain an uninterrupted outlook

over their own reasonably sized rear garden. Accordingly, there would be no unacceptable loss of outlook to the occupants of No 47.

37. The side boundary with No 53 is marked by very tall and dense vegetation, which the submitted evidence indicates will be retained. As a consequence, the proposal is likely to be largely hidden in views from the neighbouring property, and would not result in a loss of daylight and sunlight to the neighbouring occupiers. The vegetation would also screen views from the proposal's windows towards the neighbouring property. Consequently, I do not find that the proposal would have a harmful impact to the occupants of No 53 with reference to daylight, sunlight, outlook and privacy.
38. Overall, I conclude that the proposed development would result in unacceptable harm to the living conditions of the occupants of 47 Stafford Road, with particular regard to daylight, sunlight and privacy. This would be contrary to Policy CSP18 of the CS and Policy DP7 of the TLP which require that development does not harm the amenities of occupiers of neighbouring properties.

Other Matters

39. The appeal proposal would provide a small increase of 13 (in net terms) additional new homes in the area and there is nothing before me which indicates that this could not be delivered quickly. It has been put to me that these would provide much needed housing for local families, couples and first steps onto the property ladder. I attach significant weight to the potential contribution that the appeal proposal would make to the housing land supply shortfall.
40. The proposed intensification of use that would result would represent a more effective use of land which is encouraged by paragraph 119 of the Framework. However, the benefit I attach to this is tempered by the harm I have identified to the character and appearance of the area.

Planning Balance and Conclusion

41. The Council cannot demonstrate a five year supply of deliverable housing sites. In these circumstances footnote 7 of the Framework establishes that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not within a protected area.
42. Paragraph 180 of the Framework sets out the principles for how decisions should protect and enhance biodiversity. Policy CSP17 of the TDCS and Policy DP19 of the TLP are consistent with the Framework and therefore I have given them full weight.
43. The Framework also sets out at paragraph 131 that trees make an important contribution to the character and quality of urban environments, whilst paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Furthermore, the Framework expects development to be visually attractive as a result of good architecture and layouts and to create places with a high standard of amenity for existing and future users. Consequently, Policies

CSP12, CSP18 of the CS, Policies DP5, DP7 and DP8 of the TLP and Policies CCW4 and CCW5 of the CCWNP are consistent with the Framework. As such they have been given full weight.

44. As described above the benefits associated with 13 (in net terms) additional new homes would be significant. The Framework also gives substantial weight to the value of using suitable brownfield land within settlements for housing.
45. The support for the proposal in the Framework is countered by the importance of design which is a key aspect of sustainable development. This establishes that development that is not well designed should be refused. In view of my conclusions on the effect on a protected species, and having regard to the statutory provisions protecting the species, I attach considerable weight to that potential for harm. Equally, the identified adverse impacts of the development, in respect of highway safety, trees and living conditions are matters of a high order.
46. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
47. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed and outline planning permission be refused.

B Pattison

INSPECTOR