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## Appeal Decision

Site visit made on 10 December 2014

**by Grahame Gould BA MPhil MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 5 January 2015**

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### **Appeal Ref: APP/L3625/W/14/3000049**

### **38 to 44 Buckles Way, Banstead, Surrey SM7 1HD**

- 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 Bancroft Developments Limited against the decision of Reigate and Banstead Borough Council.
  - The application Ref 14/01560/F, dated 27 July 2014, was refused by notice dated 19 September 2014.
  - The development proposed is 'construction of 5 detached dwellings on land forming the curtilages of Nos 38 to 44 Buckles Way, Banstead, Surrey after demolition of No 42'.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. While undertaking my site visit and given the limited extent of the site location plan accompanying the appealed application, I found it difficult to establish how the appeal site related to 8 and 9 Larchwood Close. Accordingly, at my request and for the purposes of clarification, the appellant has submitted a 1:1250 scale site plan showing the appeal site's siting relative to Nos 8 and 9. I have treated this plan as providing clarifying information only to assist me in reaching my decision.
3. In response to the Council's second reason for refusal the appellant has submitted a planning obligation, in the form of a Unilateral Undertaking, under Section 106 of the Town and Country Planning Act. This obligation would secure the making of a financial contribution towards the provision of affordable housing within the Council's area. However, on 28 November 2014 the Government published amended guidance for seeking affordable housing contributions<sup>1</sup>. Under the PPG residential developments of 10 or fewer units and with a gross floor area of no more than 1,000 square metres are exempt from making affordable housing contributions. I have therefore sought the views of the appellant and the Council on how the change to national policy affects this appeal, an issue which I return to later.

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<sup>1</sup> Paragraph 012 the Planning Obligations section of the Planning Practice Guidance [the PPG](Paragraph 012 Reference ID: 23b-012-20141128)

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## **Main Issues**

4. The main issues are: the effect of the development upon the character and appearance of the area; and whether a financial contribution towards affordable housing is necessary.

## **Reasons**

### *Character and Appearance*

5. The appeal site comprises the whole of the grounds to 42 Buckles Way (No 42), a two storey detached house, and parts of the rear gardens of Nos 38, 40 and 44, which are also two storey houses. The rear gardens of the houses in Buckles Way that I saw are extensive, with their side boundaries being marked by a mixture of fences, hedges, shrubs and trees.
6. The appeal development would involve the construction of five detached houses in what would be a backland situation, which would present side or rear elevations to the adjoining rear garden areas of 22a, 22b and 24 Beacon Way. The dwellings in Buckles Way, Beacon Way and Larchwood Close all front directly onto the public highway, a characteristic which the appeal development would not follow. The proposed dwellings and the host properties at Nos 38, 40 and 44 would have comparatively small back gardens and the resulting density for these new and existing dwellings would be at odds with the prevailing spacious and verdant rear garden environment that I saw.
7. In terms of the assessment of rear garden sizes and their consequences for the development's density, it will be evident that I do not entirely share the views of my colleague who determined the most recent appeal<sup>2</sup> for six houses relating to the appeal site. While I do not doubt the reduction in the number of dwellings represents an improvement by comparison with the previously dismissed scheme, in my opinion it is the comparatively small plot sizes which would result in the current proposal having a cramped appearance and it is the rear garden depths which contribute to this failing. While dwelling designs are varied within Buckles Way, long rear gardens are a unifying characteristic for this street.
8. I am not persuaded that the existing planting to be retained, which in places did not appear to be as extensive as shown on the proposed 'Site Plan'<sup>3</sup>, in combination with the proposed planting, given the length of time it would take for the latter to become established, would provide adequate mitigation against the harm that I have identified.
9. I therefore find that the proposed development would have an alien and cramped appearance and would thus not be respectful of its context and would be harmful to the area's character. The change in the area's character would be most apparent to the occupiers of 22a and 22b Beacon Way, given the orientation of these properties and the length of their back gardens and the proposed siting of the house within plot 2. In my judgement, the change in the area's character would also to varying and lesser degrees be

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<sup>2</sup> APP/L3625/A/14/2216176

<sup>3</sup> Drawing 21A

experienced by the occupiers of: 24 Beacon Way; the immediately adjoining properties in Buckles Way, including No 46; and 9 Larchwood Close. As the outlook from 8 Larchwood Close is towards 32 Buckles Way<sup>4</sup>, with the appeal site being two garden widths away, I find that the occupiers of No 8 would not experience any appreciable change in the area's character.

10. My attention has been drawn to various backland developments off Nork Way<sup>5</sup>, which I visited on an unaccompanied basis. While I do not know the circumstances that gave rise to these developments, from what I was able to observe I do not find them to be directly comparable to the appeal scheme. This is because they were larger in scale and do not exhibit the piecemeal characteristics of the appeal development.
11. I do not find my reasoning on this issue to be at odds with: the provisions of the Council's Local Distinctiveness Design Guide, which recognises that in certain instances infill development will be acceptable; or the deliberations of my colleague who examined the Reigate and Banstead Core Strategy 2014 (the Core Strategy). My colleague indicated<sup>6</sup>, on the basis of site visits he undertook, that he envisaged that garden windfall development would continue to contribute to sustainable housing provision within the north-western section of the North Downs within the Council's area. I have found that the appeal scheme would not integrate itself successfully with the character of the local area and accordingly for the purposes of National Planning Policy Framework<sup>7</sup> this is a scheme which does not amount to sustainable development.
12. I conclude on this issue that the appeal development would be harmful to the character and appearance of the area and would make it a less pleasant place within which to live. Accordingly there would be conflict with objectives of Policies Ho9, Ho13 and Ho14 of the Reigate and Banstead Borough Local Plan 2005 (the Local Plan), which amongst other things, require new development to: be of a scale that is not detrimental to the surrounding area; promote or reinforce local distinctiveness; and have plot sizes and spacing reflective of its surroundings.
13. The appellant contends that the Council in its officer report has raised no objection to the appeal scheme under the provisions of Policies Ho9 and Ho14 of the Local Plan. I do not understand the Council's position to be that it raises no objection per-se to the development under Policies Ho9 and Ho14, with it being clear that under the sub-heading of 'Design and Character' the Council objects to the scheme under the aforementioned policies. It is only when considering 'Neighbourhood Amenity' (receipt of light and privacy) that the Council has identified no conflict with Policies Ho9 and Ho14. I do not find the provisions of Policy Ho16 to relevant because this policy addresses frontage development and extensions.

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<sup>4</sup> Established from the clarifying Ordnance Survey plan submitted further to my site visit

<sup>5</sup> Acer Close, Rowan Close, Ash Close and Acorn Close

<sup>6</sup> Point A of the Inspector's Note on Proposed Modifications (18 June 2013)

<sup>7</sup> When read in the round and regard is paid to paragraph 6 in particular

### *Affordable Housing*

14. The appellant's Unilateral Undertaking would secure the payment of £61,647.00 towards the provision of affordable housing within the Council's area. This undertaking has been submitted further to the requirements of Policy CS15 of the Reigate and Banstead Core Strategy (The Core Strategy), which was adopted in July 2014. However, notwithstanding the Core Strategy's recent adoption, Policy CS15 is now not wholly consistent with national policy, as expounded in the PPG.
15. The Government's decision<sup>8</sup> to introduce an affordable housing contribution threshold at 11 dwellings or more has the purpose of bringing forward smaller scale residential developments, by reducing a financial burden upon them. I recognise that the Council has a need to increase the supply of affordable housing within its area, nevertheless I am of the view that greater weight should be attached to the recently introduced national policy rather than Policy CS15.
16. I do not doubt that the appellant's undertaking would make a useful contribution to affordable housing provision within the Council's area. However, in this instance, given the content of the PPG, I find there is no longer a policy imperative for an affordable housing contribution to be made. In any event the making of this contribution would not address the harm that I have identified under my first main issue and I therefore conclude that the appellant's undertaking only weighs to a limited degree in favour of the appeal development.

### **Other Matters**

17. The appellant has submitted that the appeal proposal should be considered in the context of the presumption in favour of sustainable development under the provisions of paragraphs 14 and 47 of the Framework, as it would contribute to the provision of additional housing within the urban area. I accept that the appeal scheme would make a modest contribution to the housing supply in the Council's area, however, I have found that this development would be harmful to the character and appearance of the area. Accordingly when the Framework is read in the round the appeal scheme cannot be considered to amount to sustainable development.
18. I note that the highway authority has raised no objection to the appeal scheme and I see no reason to take a contrary view. I accept that the proposed development, having regard to the relative site levels and separation distances, would not give rise to any unacceptable: loss of light or privacy; overshadowing; health, crime prevention or drainage and flooding effects; or nature conservation impacts. However, I do not find the aforementioned matters to outweigh the harm that I have identified.
19. The harmful aspects of the appeal scheme are such that they could not be overcome by the imposition of reasonable planning conditions.

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<sup>8</sup> The explanation for which is provided in The Minister of State's statement of 28 November 2014

**Conclusions**

20. For the reasons given above I find that the appeal scheme would be harmful to the character and appearance of the area. I therefore conclude that the appeal should be dismissed.

INSPECTOR

*Grahame Gould*