
Appeal Decision

Site visit made on 27 October 2016

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 1 December 2016

Appeal Ref: APP/A3655/W/16/3151323

Haere Mai, Mile Path, Woking, Surrey GU22 0JL

- 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 Mr Colin Begeman of Lucas Design and Construction against the decision of Woking Borough Council.
 - The application Ref PLAN/2015/1346, dated 4 December 2015, was refused by notice dated 1 March 2016.
 - The development proposed is the erection of single storey dwelling with accommodation in the roof space, associated external works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Woking Development Management Policies Development Plan Document (DMP) was adopted during the course of the appeal and replaced policies contained within the Woking Local Plan (LP). The Council provided a policy update along with copies of DMP Policies that superseded LP Policies. According to the DMP, Policy HSG22 of the LP referred to in the first reason for refusal has been superseded by Policy DM9 of the DMP that relates to flats above shops and ancillary accommodation, although it is unclear as to the relevance of that policy to this case. Policies DM2 and DM10 of the DMP have also been drawn to my attention. The appellant was given the opportunity to comment on this and I have based my decision on the current adopted policies.
3. Since determination of the planning application, the Court of Appeal issued judgement in the case of Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441. This confirms that the policies in the Written Ministerial Statement of 28 November 2014¹ (WMS) relating to contributions toward affordable housing and tariff-style planning obligations on small scale development should be treated as a material consideration in the determination of appeals. In the light of this, the Council have withdrawn the reason for refusal relating to the lack of contributions toward affordable housing.

¹ National Planning Practice Guidance (PPG) reference ID: 23b-031-20160519

Main Issues

4. The main issues are:

- the effect of the proposed dwelling on the character and appearance of the and surrounding area;
- the effect of the living accommodation on the living conditions of occupants of the proposed dwelling by reason of the size of the outdoor amenity space and the level of privacy in it; and
- the effect of the proposed development on the Thames Basin Heaths Special Protection Area.

Reasons

Character and appearance

5. Mile Path and surrounding roads comprise large detached dwellings set within substantial gardens that contain mature planting, providing an Arcadian character to the area. Haere Mai is a substantial house surrounded by a low hedge, on the junction of Mile Path and Holly Bank Road. Most of the garden is open lawn with planted borders.
6. The proposed dwelling would be located to the rear of the existing property and would front Holly Bank Road. The plot would be small in comparison to surrounding properties, with the proposed dwelling located toward the front of the plot and it would be a more modest dwelling than those around. Although some garages and other ancillary buildings are set toward the front of their plots, including that at the neighbouring property, Roselands, the houses themselves are set further back. The ancillary buildings are clearly legible as such and do not erode the general impression of dwellings set back from the street behind spacious front gardens with significant areas of planting to the frontage. Indeed, this arrangement of dwellings and outbuildings form part of the character and appearance of the area, with the verdant frontages contributing toward its Arcadian character. Even if the garage at Roselands does have living accommodation above it, it nonetheless has the general appearance of an outbuilding and does not disrupt the general pattern to any noticeable degree.
7. The function of the proposed dwelling would be obvious, because of its size and design. Though smaller than those around it, it would be plainly legible as a dwelling in the wider street scene. But because of its siting towards the front of this small plot, and its smaller size, it would appear cramped and incongruous. Its forward position would disrupt the rhythm of the buildings here and would cause it to stand out. Moreover, its proximity to Holly Bank Road would contrast with the spacious, verdant character of the area, and would detract from it. Incorporating hedging as part of the landscaping, as the appellants suggest, would not prevent these visual impacts.
8. As a result, I conclude that the proposed dwelling would harm the character and appearance of the surrounding area. As such, the development would be contrary to Policies CS21 of the Woking Core Strategy (CS), Policy DM10 of the DMP, Policy BE1 of the Hook Heath Neighbourhood Plan and the National Planning Policy Framework (NPPF) that seek high quality development that reflects the character and appearance of the surrounding area and

development of garden land that does not harm the character and appearance of the area. My attention has also been drawn to Policy DM2 of the DMP that seeks to protect trees and landscaping, however, there is no evidence that any trees or landscaping would be lost that would materially affect the character or appearance of the area.

Thames Basin Heaths Special Protection Area

9. The site lies within the zone of influence of the Thames Basin Heaths Special Protection Area (SPA) that is designated under the Habitats Directive. Policies contained within the LP require appropriate avoidance and/or mitigation measures be provided to mitigate the effects of recreational disturbance on those sites from residents of new residential development. The SPA Avoidance Strategy requires financial contributions toward mitigation via planning obligations.
10. The mitigation measures required are in the form of Strategic Access Management and Monitoring. These measures are not infrastructure projects, so do not fall to be considered under the Community Infrastructure Levy Regulations pooling restrictions.
11. Tariff style planning obligations, such as those requested, should not be sought for schemes of 10 dwellings or less in accordance with the WMS. However, the PPG confirms that contributions may be sought to fund measures with the purpose of facilitating development that would otherwise be unable to proceed because of EU Directive requirements², such as the Habitats Directive.
12. The appellants have suggested they would be willing to contribute to the mitigation measures, but no planning obligation to provide this contribution has been provided. For the above reasons, I conclude that in the absence of an appropriate planning obligation, the effects of recreational disturbance arising from the proposed development would cause harm to the SPA. As such, the development is contrary to Policy CS8 of the CS and Policy NRM6 of the South East Plan that seek to protect the SPA from the adverse effects of development.

Living conditions

13. Whilst set forward on the plot, the proposed dwelling would have a modest rear garden area. Although this would be considerably smaller than other rear gardens in the surrounding area, it would reflect the size of the modest house proposed. It would provide adequate space for normal domestic activities such as hanging washing outside to dry, or to sit and enjoy the outdoor environment, and would be sufficient.
14. The existing property at Haere Mai is a substantial detached property with a number of windows in the rear elevation that face toward the proposed dwelling. An appropriate boundary treatment, combined with the distance between the two properties, would substantially reduce overlooking, particularly from the ground floor windows of the existing property. Whilst the first floor windows would lead to some overlooking of the proposed garden, this is not unusual in a residential area and would not result in unacceptably poor privacy for prospective occupants of the proposed property when using their garden.

² PPG reference ID: 23b-020-20160519

15. For these reasons, I conclude that the living conditions of future occupiers of the proposed dwelling would be satisfactory, with particular regard to the size of the outdoor amenity space and the level of privacy within it. As such, the development would comply with Policy CS21 of the CS and the Framework that seek to achieve a satisfactory relationship between properties to ensure there is not a significant harmful impact on the living conditions of prospective occupiers.

Conclusion

16. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR