
Appeal Decision

Site visit made on 7 February 2017

by David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC

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

Decision date: 24th February 2017

Appeal Ref: APP/X0360/W/16/3162713

16 Wiltshire Avenue, Crowthorne RG45 6NG

- 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 and Mrs R Russett against the decision of Wokingham Borough Council.
 - The application Ref 161539, dated 5 June 2016, was refused by notice dated 26 August 2016.
 - The development proposed is demolition of existing bungalow and replacement with new house.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing bungalow and replacement with new house at 16 Wiltshire Avenue, Crowthorne RG45 6NG in accordance with the terms of the application, Ref 161539, dated 5 June 2016, subject to the conditions set out in the schedule at the end of the decision.

Main Issues

2. These are a) The effect of the proposed development on the character and appearance of the area, b) its effect on the living conditions of adjacent occupiers with regard to loss of privacy, c) whether or not the annex proposed as part of the development is tantamount to a separate dwelling and d), as a consequence of c), whether or not a financial contribution is required in order to mitigate the effects of that additional dwelling on the Thames Basin Heath Special Protection Area (SPA).

Reasons

The site context, the proposals and their effect on the character and appearance of the area

3. If Wiltshire Avenue is characterised by any one attribute this is its architectural diversity. Its linear axis, bordered by grass verges, mature deciduous trees and boundary planting frame a great variety of house types. These range from the scholarly English Domestic Revival, through inter-war neo-Arts and Crafts, to post-war bungalows and a contemporary generation of post-modern vernacularism. They all express a great variety of materials, including brick, render, tiles (both clay and concrete) and slate. The newer replacement dwellings appear to favour render, though modern pale brick is also used.

4. Although there are some elements of existing houses that have flat roofs, these are more a utilitarian choice than an aesthetic one, and most if not all houses opt for a traditional form of pitched roofs with either hips or gables. As noted before, nearly all are seen through the filter of boundary planting along the road frontage.
5. The appellants refrain from offering a definition of the style of the architecture proposed, though the Council do refer to it as an 'Art Deco style of dwelling'. This is not far off the mark in my view, though perhaps equally it could be described loosely as Moderne, or Modernist in style. Whatever one's stylistic definition, the design employs components of differing height, a strong horizontal emphasis through the use of fenestration and cornices, and most forcefully through the choice of flat roofs. The finish is a white render, also a trademark of such aforementioned architectural styles.
6. To avoid compromising the outlook of adjacent dwellings the two storey element is located on the centre of the site with the single storey components enveloping it to side and front. In my view the resultant street elevation is both well-modulated and elegant, where it's white elevations and horizontal planes would be discernable through the filter of the trees standing on the boundary.
7. This is on the face of it is indisputably a stylistic departure from the other houses in the avenue. However, it does resonate with some of the more recent rebuilds in the area which have opted for the light rendered finish and the distinctive modulation does register with some of the more expressive tower-like additions to some of these recent additions. Furthermore, with the unifying filter of the planting and flashes of render behind, there would be a discernable sense of continuity with the other recent additions to the avenue.
8. Moreover, if the proposals are viewed within the spectrum of architectural variety in the avenue, they simply augment and further diversify that variety, adding to its broad range of forms, textures and colours. It should not be forgotten that the dwelling it seeks to replace is itself unremarkable that adds little to the character of the area other than its relative unobtrusiveness. In achieving these ends I also consider it responds positively to its context and enhances the local distinctiveness of the area.
9. In my view this is a confident and refreshing piece of domestic architecture that would add a degree of zest and variety to an already diverse suburban street scene. There would therefore be no harm to the character or appearance of the area and so no conflict with the policy CP3 of the Adopted Core Strategy DPD 2010 (CS) which seeks to secure appropriate built form to development and high quality design. Moreover, and for the reasons set out above, I consider it conforms to the relevant sections (4.1 in particular) of the Borough Design Guide 2012. Whilst I conclude the proposals would preserve the locally distinctive diversity of the area, I am also mindful of the expectations of paragraph 60 of the National planning Policy Framework, which advises us that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles'.

Effect on living conditions

10. The north facing element of the corner window of bedroom No 2 would afford an outlook over the adjacent front garden. However, this space is unlikely to be the preferred location for private recreation, nor is this secondary bedroom likely to function as a primary habitable room. Nevertheless the appellants accept that any issue of overlooking here could be mitigated through a condition requiring this element of the window to be fixed and obscure glazed. The Council has apparently accepted this in correspondence and indeed offers such a condition in the event that the appeal is allowed. I agree with both parties and have attached such a condition, including provision that other windows in the flank elevations (actually serving bathrooms) are also so treated. On this basis there is no conflict with policies CP1 and CP3 of the CS, which seek both good quality design and the safeguarding of current and future occupiers living conditions.

Creation of a separate dwelling

11. It is the case that the proposed annex is physically separate from the main dwelling, and thus capable of discrete occupation. However, this does not, of itself, mean that it would operate, or could be made to operate as a separate dwelling. Indeed, the ground floor plan suggests shared and mutually overlooked private amenity space and other symbiotic attributes (such as the overlapping integration of both components over the two floors) further militate against that dual function. Moreover, and decisively in my view, the appellants have submitted a signed and dated unilateral undertaking binding the annex as accommodation ancillary to the main dwelling ensuring that it shall not be sold or leased separately.
12. Given the physical separation between the two units I conclude this undertaking is required to deliver the necessary surety that the annex shall be used for no other purpose than that ancillary to the main dwelling. On this basis I conclude it renders the development acceptable in planning terms on this account, that it is proportionate and is manifestly related to the development. I am therefore, in accordance with Regulations 122 of the Community Infrastructure Levy and paragraph 204 of the National Planning Policy Framework, able to take it into account in my decision. On this basis there would be no conflict with policies CP1 and CP3 of the CS, which amongst other things seek an appropriate standard of sustainable development.

The necessity for financial contributions to mitigate effects on the SPA

13. The Council's pursuit of a financial contribution to mitigate the effect of the proposed dwelling on the SPA is predicated upon the proposed annex being in effect a separate dwelling. As I have concluded that with the unilateral undertaking in place it can unambiguously be viewed as ancillary to the main dwelling, this argument and justification falls away. There is no requirement for a contribution in this regard and there is therefore no conflict with policy CP8 of the CS which seeks to safeguard the SPA.

Conditions

14. The appeal being allowed, I have given consideration to the conditions suggested by the Council and the appellant's comments upon them. Having done so, I attach a condition requiring that the development hereby approved is carried out in accordance with the approved drawings, to assure certainty.

15. I also attach a condition requiring the submission of samples and details of materials used in the finishing of the external finishing of the building in order that the character and appearance of the area is safeguarded. For the same reason I attach a condition requiring no works on the site are commenced until suitable measures for the protection of trees on the site have been undertaken for the duration of the development process, thus ensuring the well-being of trees and shrubs so safeguarding the contribution they make to the character and appearance of the area.
16. I attach a condition requiring that the mitigation and compensation measures set out in the bat emergence and re-entry survey are fully implemented, in order that the ecological interest of the site, including protected species, are fully safeguarded.
17. A condition is also attached requiring that BRE sokage test results are submitted to demonstrate filtration rates are achieved to accepted levels, reflecting appropriate tolerances and supported by details of maintenance measures to safeguard against any increased risk of flooding.
18. I further attach conditions requiring that the garage proposed as part of the development shall be retained for the storage of motor vehicles, that the parking spaces hereby approved are laid out prior to occupation, both to ensure the provision of adequate on-site parking in the interests of highway safety and the convenience of other road users.
19. I attach two further conditions requiring that the first floor north-facing window of bedroom two be obscure glazed and fixed shut and those other windows shown on the drawings as such are so fitted, both to safeguard the living conditions of adjacent occupiers.
20. Finally I agree with the appellants that a modified approach to the analysis of whether there is any contamination on the site should be adopted. I have therefore used the amended wording in the attached condition suggested by them in evidence.

Conclusions

21. For the reasons given above and having considered all matters raised, I conclude that the appeal should be allowed.

David Morgan

Inspector

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) This permission is in respect of the submitted application plans and drawings numbered 160130-SV-002, 160601-SV-003, 160-SV-004, 160521-CD-BT01, 16 WAV – 9A, 16 WAV – 8A, 16 WAV – 7A, 16 WAV – 6A, 16 WAV – 5A, 16 WAV – 4A, 16 WAV – 3A, 16 WAV – 31 A, 16 WAV – 2A, 16 – WAV – 1A, 16 WAV – 14A, 16 WAV – 13A, 16 – WAV – 12A, 16 – WAV – 11A, 16 WAV – 10A and SPH/AS/RPA – 01/20.04, received by the local planning authority on 13/06/2016. The development shall be

- carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.
- 3) Before the development hereby permitted is commenced above slab level, samples and details of the materials to be used in the construction of the external surfaces of the building/s shall have first been submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the so-approved details.
 - 4) The Mitigation and compensation proposals detailed in section 6 and appendix 3 of the submitted bat emergence and re-entry survey (John Wenman Ecological Consultancy, Ref: R1387/a, July 2016) and in drawing no. 160521-CD-BT01 shall be implemented in accordance with the approved plan unless otherwise approved in writing by the Local Planning Authority.
 - 5) Before the development hereby permitted is commenced, BRE Soakage test results shall be submitted to demonstrate that infiltration rates are achievable with regards the drainage plan demonstrated on plan number 16 WAV-14A, which shall be designed to cater for a 1 in 100 year floor event with a 40% allowance for climate change. Before the development hereby permitted is commenced, details shall be submitted of how maintenance of the SuDS feature will be maintained throughout the lifetime of the development.
 - 6) Before any development is commenced, the result of a preliminary investigation into past uses of the site will be submitted to the local planning authority for a written determination as to whether further investigation is required. If the local planning authority indicates further investigation is required, a scheme to deal with potential contamination of the site shall be submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of any contamination and the measures to be taken to avoid risk when the site is developed. No building shall be occupied until the measures have been carried out and a validation report has been submitted to and approved in writing by the Local Planning Authority.
 - 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the garage accommodation on the site identified on the approved plans shall be kept available for the parking of vehicles and uses ancillary to the residential use of the site at all times. It shall not be used for any business nor as habitable space.
 - 8) No part of any building hereby permitted shall be occupied or used until the vehicle parking space has been provided in accordance with the approved plans. The vehicle parking space shall be permanently maintained and remain available for the parking of vehicles at all times.
 - 9) a) No operations shall commence on site in connection with development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening or any other operation involving use of motorised vehicles or construction

machinery) until the tree protection works as outlined on the 'Root Protection Drawing' outlined in 'Tree Surveys' (ref SPH/AS/RPA-01/02.04) are in place on site.

b) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within an area designated as being fenced off or otherwise protected in the Approved Scheme.

c) The fencing or other works which are part of the Approved Scheme shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials removed from the site, unless the prior approval in writing of the local planning authority has first been sought and obtained.

- 10) The north facing part of the window of bedroom 2 of the development hereby permitted shall be permanently obscure-glazed and fixed closed at all times.
- 11) Those windows shown on the approved drawings as having obscured glazing in part or full shall be so-fitted and shall be permanently so retained, and shall be non-opening below 1.7 metres above floor level.