
Appeal Decision

Site visit made on 14 March 2017

by Alex Hutson MATP CMLI MArborA

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

Decision date: 4 April 2017

Appeal Ref: APP/N1730/W/16/3161192

Woodside Lodge, Woodside, Blackwater, Camberley GU17 9JJ

- 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 Philip Rosier against the decision of Hart District Council.
 - The application Ref 16/00686/FUL, dated 16 March 2016, was refused by notice dated 23 September 2016.
 - The development proposed is "Demolition of existing bungalow and detached garage, construction of new two storey dwelling".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposal on the living conditions of the occupiers of 22, 23 and 25 Woodside with particular regard to outlook and additionally, in respect of the occupiers of No 22, privacy.

Reasons

3. The appeal property is a single storey dwelling with a detached garage located at the southernmost end of Woodside, which is a cul-de-sac. It lies between residential dwellings Nos 24 and 25, which are orientated perpendicular to the predominantly linear pattern of development along Woodside, and adjoins part of the side boundary of the rear garden of No 22. The proposal would demolish the existing dwelling and garage structure and would introduce a two storey dwelling onto the appeal site.
 4. The existing dwelling is set back a generous degree from the side boundary of No 25. This factor, combined with its modest overall height, is likely to provide a good sense of space and openness to the side garden of No 25. I observed that the side garden comprises an area of lawn and a patio with garden furniture. As such, this space is likely to be utilised by the occupiers of No 25 for amenity purposes, such as sitting out and relaxing. The proposal would substantially increase the height of built form at a considerably closer proximity to the side garden of No 25.
 5. I acknowledge that there are no windows within the side elevation of No 25 which face the appeal site and therefore the increase in height and closer proximity of built form would not be noticeable from within this dwelling.
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However, it would provide considerable enclosure to the side garden of No 25 which would erode the garden's sense of space and openness. As such, the proposal would appear overbearing for the occupiers of No 25 when using their garden and would reduce their enjoyment of it. Consequently, it would result in significant harm to their outlook in this respect. Whilst I note that there were no objections to the proposal from the occupiers of No 25, this does not inevitably translate to an absence of harm.

6. The proposal, given the increase in height, would be apparent in views from the rear garden of No 22. However, it would be set away from the side boundary of the rear garden of No 22 to such a degree that would not, in my judgement, result in any overwhelming sense of enclosure to the rear garden. It would not, therefore, appear overbearing for the occupiers of No 22 and would not materially detract from their enjoyment of their rear garden in this respect.
7. Whilst the Council's Decision Notice and evidence refer to the overbearing effects of the proposal on the occupiers of No 23, the submitted plans show that this property is separated from the appeal site by No 24. I also observed this to be the case during my site visit. Consequently, the proposal would not be apparent in any views from No 23 or its respective garden and would not be overbearing for its occupiers. However, I have had regard to the effects of the development on the occupiers of No 24. I observed that there are no upper floor windows to habitable rooms within this property that face the appeal site and any ground floor windows already face, at close proximity, high boundary fencing along the boundary with the appeal site. Moreover, given its positioning within the appeal site, the proposal would be unlikely to provide any enclosure to the rear garden of No 24. It is therefore unlikely to result in an overbearing form of development for the occupiers of No 24.
8. Turning to matters of privacy, I acknowledge that some rear facing windows within the upper floors of Nos 21 and 24 may allow for some overlooking of the rear garden of No 22. I also recognise that some level of overlooking is commonplace in suburban areas and it is unreasonable to expect total privacy in respect of rear gardens in such areas. In addition, I note that the appellant sought to reduce the size of the first floor rear facing windows during the course of the application. Nevertheless, the orientation of these windows towards the rear garden of No 22 would allow any future occupiers the opportunity to overlook directly, and from a modest distance, a large part of the rear garden of No 22. This would considerably increase both the actual and perceived level of overlooking into this garden. This would result in a significant and harmful loss of privacy for the occupiers of No 22 which would detrimentally affect the enjoyment of their garden.
9. Whilst there is some vegetation growing along the side boundary of the rear garden of No 22, I observed that it is not of a sufficient density or height to mitigate the overlooking which would arise. The appellant has suggested that additional landscaping could be introduced along the rear boundary of the appeal site to further screen any views into the rear garden of No 22. However, I have not been provided with any substantive details to illustrate the form that any such landscaping might take. Moreover, it would likely take a considerable length of time to mature before it would provide any effective screening. As such, these factors do not persuade me to alter my view with regard to loss of privacy.

10. I therefore conclude that the proposal would result in significant harm to the living conditions of the occupiers of No 25 in respect of outlook and to the living conditions of the occupiers of No 22 in respect of privacy. Thus, it would be contrary to saved Policies GEN 1- General Policy for Development and URB 12- Residential Development: Criteria, of the Hart District Local Plan (Replacement) 1996-2006 (Replacement Local Plan). These policies require, amongst other things, development not to cause material loss of amenity to adjoining residential uses. They are consistent with the broad aims and objectives of the National Planning Policy Framework which seek to secure a good standard of amenity for all existing occupants of land and buildings.
11. Whilst the Council cites conflict with saved Policy GEN 4- General Design Policy, of the Replacement Local Plan, this policy does not relate to living conditions matters and is therefore not of relevance to this main issue.

Other matters

12. Whilst not cited as reasons for refusal, the Council raises concerns in its Officer's Report with regard to the effect on the character and appearance of the area and with regard to amenity space provision for any future occupiers. In respect of character and appearance, the proposal would broadly reflect the scale and height of other dwellings along Woodside. Though many other dwellings along Woodside may occupy more spacious plots, this is not true of all, including Nos 23 and 24, which the proposal would be within the immediate context of. As such, I am satisfied that no harm would arise to the character and appearance of the area.
13. The Council has not provided me with any local external amenity space standards. The proposed rear garden would be broadly regular in shape and would be well connected to the main living areas. Whilst it would be approximately 5.5 metres at its shortest depth, it would be deeper than this in other parts and would be generous in width. On this basis, it would provide a reasonable level of utility for any future occupiers.
14. I note that pre-application advice was sought which the appellant considers has been complied with. However, such advice does not prejudice the Council's decision on a subsequent planning application. Moreover, the Council's advice clearly identified concerns in respect of overlooking the property of No 22 from any proposed first floor rear facing windows. As can be seen from the Council's Decision Notice and my reasoning above, the proposal has not overcome this concern.
15. I acknowledge that the proposal would provide a high quality home with a good living environment for any future occupiers. It would be constructed using sustainable building techniques, is intended to be a self-build project and would occupy a site that has been previously developed. However, these matters would not, individually or cumulatively, outweigh the harm I have identified.

Conclusion

16. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

Alex Hutson INSPECTOR