
Appeal Decision

Site visit made on 21 November 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 13th December 2017.

Appeal Ref: APP/K3605/W/17/3181923

11 Oakfield Glade, Weybridge KT13 9DP

- 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 Anthony Martin against the decision of Elmbridge Borough Council.
 - The application Ref 2016/4076, dated 12 December 2016, was refused by notice dated 4 July 2017.
 - The development proposed is division of the plot of 11 Oakfield Glade to build a detached two-storey house with additional accommodation in the roof and submerged basement. Demolition of the existing garage building and alterations to the facades of the existing house.
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Decision

1. The appeal is allowed and planning permission is granted for division of the plot of 11 Oakfield Glade to build a detached two-storey house with additional accommodation in the roof and submerged basement, and demolition of the existing garage building and alterations to the facades of the existing house at 11 Oakfield Glade, Weybridge KT13 9DP in accordance with the terms of the application, Ref 2016/4076, dated 12 December 2016, subject to the nine conditions set out in the schedule at the end of this decision.

Procedural Matter

2. A second appeal has been submitted on the same site for a similar proposal¹. The second appeal was submitted too late for it to be considered alongside this appeal and will be dealt with by a separate Inspector. A decision on the second appeal has not been issued at the time of issuing this decision. As a consequence, it would not be appropriate for me to have any regard to the second appeal. For the avoidance of doubt, I have determined this appeal on its own merits based on the evidence before me.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of Oakfield Glade.

Reasons

4. Oakfield Glade is a private road and part of a housing estate built in the interwar period of the 20th century. It contains a number of large detached properties of individual design. The Design and Character Supplementary

¹ APP/K3605/W/17/3188993

Planning Document (SPD) 2012 does not refer to Oakfield Glade specifically, but it does identify that the Arts and Crafts style is found within this part of the borough. The character and appearance of Oakfield Glade is informed by the use of traditional materials and attractive detailing, generous plot widths and depths, and mature vegetation, all of which are characteristics of the Arts and Crafts style. Properties are set back from the road by grass verges, strong boundary planting and front gardens. Building heights and building lines are broadly consistent along the road. Some properties display strong asymmetries, but others are more symmetrical.

5. A number of properties have been extended to the side and rear and in the roof. As such, there is variety in terms of size and form, with most properties covering the full width of their plots. In some cases, this includes two storey elements of neighbouring properties close to each other along the side boundary, such as between 8 Oakfield Glade and its neighbours either side. There is a range of materials in use on external surfaces consistent with the Arts and Crafts style, including red brick external walls and tile hanging and/or timber framing at ground and/or first floor in some cases. Roof materials are largely plain clay tiles, while windows are typically of a casement design coloured white or black and front doors solid timber.
6. The existing property at 11 Oakfield Glade conforms to the above character and appearance in terms of its design, size and siting as a large property. It benefits from a large garden with substantial space on the south side where the proposed dwelling would be located. Apart from three access points onto the road, the frontage of No 11 contains mature and tall vegetation that ensures the existing property and its garden has a secluded feel. Although located in approximately the centre of Oakfield Glade, its screening and seclusion does not make the property and its garden more prominent than any other along the road.
7. The public footpath to the south of No 11 is enclosed by further mature and tall vegetation running along most of the southern boundary of the site, as well as hedging and the flank elevation of the next property at 13 Oakfield Glade. No 13 is a large property with a number of extensions including to the side and in the roof where an additional floor of living space has been created.
8. The proposed development would erode most of the space to the south side of the existing property at No 11. While this would have some negative effects in terms of the setting of the existing property and the overall street scene, the garden itself is largely hidden by vegetation and so does not make a particularly strong contribution to the character and appearance of the area. The plans show that most of the existing boundary vegetation would remain along the front and side boundaries. This would maintain the leafy and secluded nature of the road and reduce the prominence of the new building. While there might be pressure to remove vegetation in the future, there would be sufficient space between windows and planting to not make this inevitable.
9. The dwelling would occupy most of the width of its new plot with a two storey form close to the flank elevation of the existing property. However, the proximity of the development to its side boundaries and the existing property would not be dissimilar to other properties on Oakfield Glade as noted above. The gaps to the side would be sufficient to avoid the sense of an unbroken wall of built development and the boundary fencing between the existing and

proposed development would not be unduly visible in the street scene. The plot width would be consistent with the rest of the road and the rear gardens for both the existing property and the new building would be sufficiently spacious for the size of each dwelling.

10. The development would be large and tall, but not significantly greater than other properties on the road including its neighbours to the north and south. While it would effectively have four floors of living space due to the basement and roof accommodation, it would appear as a two storey building from the road similar to its neighbours including No 13 which has accommodation in the roof. It would maintain a similar front building line to the properties at Nos 11 and 13 and not protrude significantly further rearwards than either neighbour.
11. Its southern side elevation would be visible from the public footpath to the south but, given the retention of vegetation and the existing flank elevation of No 13, would not result in an oppressive tunnelling effect. I see no reason why the development should be subservient to existing properties in scale or building line. I note concerns about alleged discrepancies in the ridge heights of properties as shown in the proposed street elevation drawing 1411-P-011, but having assessed the height of properties on site, I am satisfied that the overall height of the proposed development would be acceptable.
12. In terms of its design, it would be broadly symmetrical but so are a number of existing properties. The hipped roof and front gable would echo existing roof forms on the road. The dormer windows at the rear would be modern in design in terms of their flat roofs. However, they would be in proportion to the rest of the property and largely hidden at the rear, and so would not detract. The various windows on the rear elevation would similarly be obscured by boundary treatments.
13. The application form and the design and access statement indicate that traditional materials will be used for windows, doors, walls and roofs, particularly on the more publicly visible front elevation. Stone windows cills and lintels may not be a particular feature on Oakfield Glade, but on their own would not look so intrusive as to render the overall development unacceptable. Materials can be controlled via planning condition and I am satisfied that acceptable details can be achieved for this development.
14. I am conscious that a proposed house on this site was refused planning permission by the Council in 1988. It does not appear that the previous scheme was identical to the proposed development and was not assessed under the same development plan policies. In any case, I have assessed the proposed development on its own merits and have not identified any unacceptable effects.
15. In conclusion, the proposed development would have an acceptable effect on the character and appearance of Oakfield Glade. Therefore, it would accord with Policies CS4 and CS17 of the Elmbridge Core Strategy 2011 and Policies DM2, DM6 and DM10 of the Elmbridge Development Management Plan 2015 ('the DMP'). Amongst other things, these policies require new development to be well designed and integrate with local character, conserving the existing landscape and taking account of design guidance with particular regard to attributes including appearance, scale, mass, height, prevailing patterns of development and separation distances to plot boundaries.

16. The development would not conflict with the design guidance in the Design and Character SPD as it would not detract from the cohesion and consistency of development in this part of the borough. It would also meet the aims of the NPPF in terms of securing good design that reflects local character without imposing architectural styles.

Other Matters

17. Concerns have been expressed by a number of interested parties about the effect on the living conditions of occupiers of neighbouring properties. 10 Oakfield Glade on the opposite side of the road faces towards the existing property at No 11. The proposed development would be at an oblique angle to the side of No 11 and further away from No 10. Thus, it would not harm the living conditions of occupiers of No 10 in terms of outlook, privacy or light any more than the existing property does.
18. There are no windows on the flank elevation of 13 Oakfield Glade and views towards the proposed development from front and rear windows at No 13 would be very limited. Standing in the rear garden of No 13, the proposed development would be visible to some extent notwithstanding the retention of boundary vegetation. However, the development would be to the side of No 13 much like the property at No 15 is already, with an additional gap provided by the public footpath. Views from the rear dormer windows in the proposed development would be oblique towards No 13's garden. Therefore, there would be little harm to the living conditions of occupiers of No 13 in terms of outlook, privacy or light.
19. The existing property at No 11 would largely screen the proposed development in views from 9 Oakfield Glade and so there would be no adverse effect on the occupiers of No 9 in terms of their living conditions. The rear garden of the proposed development would be lengthy and there would be considerable vegetation retained along the rear boundary. Thus, there would be little harm to the living conditions of occupiers of properties at York Road to the east in terms of outlook, privacy or light.
20. The existing property at No 11 would be close to the flank elevation and boundary fencing of the proposed development. However, it is proposed to block up the first floor windows on the side elevation of the existing property and provide new windows at the front for Bedroom 1 and the lounge, with existing windows retained at the rear for Bedroom 2 and the dining room. Views from the rear dormer windows in the proposed development would be oblique towards No 13's garden. Thus, the adverse effects on the occupiers of the existing property in terms of outlook, privacy and light would be limited. The loss of windows at the first floor does not indicate over-development but merely a pragmatic response to the relative proximity of development.
21. I note the concerns raised by several interested parties regarding legal covenants that restrict additional house building in Oakfield Glade. However, these are matters beyond the scope of the planning system and would need to be addressed separately by the relevant parties.
22. I also note concerns about pressure for similar development in the surrounding area, and reference to a previous proposal on the estate that was dismissed at appeal in around 2009. However, I have not been presented with details of

- any other site or proposal. Nevertheless, each case should be assessed on its own merits based on the specific circumstances for any given site.
23. There would be sufficient space in front of the property for car parking, which means that pressure for a detached garage is not inevitable. Any proposal for such development would need to be assessed on its own merits. There would be some effect of development on trees and wildlife, but given most vegetation would remain, this does not prevent the grant of permission. Planning conditions can be attached to address arboricultural and ecological matters.
24. I note the concerns of interested parties regarding the development of garden land and the exclusion of private residential gardens in built-up areas from the definition of previously developed land in the NPPF following statements by Government ministers. However, national policy does not preclude development in gardens altogether, stating instead in paragraph 53 of the NPPF that local plans should consider policies to resist inappropriate development of such locations. In this regard, Policy DM10 of DMP states that housing development on land to the side or rear of existing property will be appropriate provided that it respects the character of the area, the privacy and amenity of existing and future residents are preserved, the means of access is appropriate and a high standard of landscaping is used. The proposed development meets all of these criteria and so does not conflict with this policy.
25. The appellant has provided a signed and dated planning obligation in the form of a unilateral undertaking regarding affordable housing. The obligation provides a financial contribution in accordance with Policy CS21 of the Core Strategy. However, the Written Ministerial Statement (WMS) dated 28 November 2014 states that contributions for developments of 10 units or less, and which have a maximum combined gross floor space of 1000 square metres, should not be sought to avoid a disproportionate burden on developers. The Planning Practice Guidance (PPG) contains a paragraph² to reflect the WMS as part of national planning guidance. There is therefore conflict between Policy CS21 and the WMS and PPG.
26. Policy CS21 remains in broad conformity with paragraphs 47 and 50 of the NPPF which requires local planning authorities to address their affordable housing needs. However, as a statement of government policy, the weight to be afforded to the WMS and its conflict with Policy CS21 is significant. The Court of Appeal judgement³ has demonstrated that the WMS should not be automatically applied without understanding the circumstances of a specific case and how this affects the implementation of development plan policies.
27. The Council has provided little information in relation to this appeal as to why it continues to apply Policy CS21 and seek affordable housing contributions for small-scale development. I have insufficient evidence in this instance to find that the implementation of Policy CS21 should outweigh the WMS and PPG. Therefore, I am unable to conclude that the submitted planning obligation is necessary to make the development acceptable in planning terms. In the circumstances, I have not afforded the obligation any weight and so it has not been a reason for granting planning permission.

² Reference ID: 23b-031-20161116

³ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

Conditions

28. Conditions setting a time limit for commencement of development and for it to be carried out in accordance with the approved plans are necessary for clarity and compliance. Conditions relating to materials, landscaping and tree works are necessary to ensure that the effect of development on the character and appearance of the area is acceptable. They are pre-commencement to reflect the sensitive nature of the area in terms of character and appearance. A condition requiring development to accord with the ecology report is necessary in the interests of biodiversity, while a condition requiring obscure glazing for flank elevation windows is necessary in the interests of privacy.

Conclusion

29. The proposed development would provide modest benefits in terms of the addition of a single house, as well as investment in construction jobs and support to local services. There would be little in the way of adverse impacts and overall the proposal would represent sustainable development. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR

Schedule of Conditions (9)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1411-P-001C, 1411-P-010E, 1411-P-011B, 1411-P-012C, 1411-P-110E, 1411-P-111C, 1411-P-112B, 1411-P-113C, 1411-P-114C, 1411-P-115A, 1411-P-116A, 1411-P-125B and 1411-P-126B.
- 3) No development shall commence until samples of the materials to be used on the external faces and roof of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until full details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. This scheme shall include indications of all hard surfaces, walls, fences, access features, the existing trees and hedges to be retained, together with the new planting to be carried out, and details of the measures to be taken to protect existing features during the construction of the development.
- 5) All hard and soft landscaping works shall be carried out in accordance with the approved details. Arboricultural work to existing trees shall be carried out prior to the commencement of the development, otherwise all remaining landscaping work and new planting shall be carried out prior to the occupation of the development or in accordance to the timetable agreed with the local planning authority. Any trees or plants, which within a period of five years of the commencement of any works in pursuance of the development die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species, following consultation with the local planning authority, unless the local planning authority gives written consent to any variation.
- 6) No development shall commence until further arboricultural details have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. This scheme shall include details of:
 - (a) the existing trees and hedges to be retained in the form of a tree survey and arboricultural impact assessment, in line with BS5837:2012, and shall include details of all current and proposed hard surfaces, walls, fences, access features, and ground levels.
 - (b) the measures taken to protect existing trees and hedges during construction, demolition, and delivery of materials / machinery, including a tree protection plan and an arboricultural method statement in line with BS5837:2012.
 - (c) prior to the commencement of works on site and after the installation of the tree protection in accordance with (b) above the applicant shall arrange a pre-commencement meeting between the local planning authority and the applicant's project arboriculturalist to allow inspection and verification of the protection measures.

- 7) In this condition "retained tree" means an existing tree, which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the first occupation of the development.
- (a) no retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any pruning shall be carried out in accordance with British Standard 3998 (tree work) and in accordance with any supplied arboricultural method statement.
- (b) if any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
- (c) tree protection shall be maintained in-situ and not moved or removed until all construction has finished and equipment, materials, or machinery are removed from site.
- (d) any arboricultural protection information and plans submitted as part of the application, and listed in the approved plans condition, or submitted to meet a condition of consent shall be implemented and adhered to at all times during the construction process unless otherwise agreed in writing with the local planning authority. This shall include any requirement for arboricultural supervision and site monitoring. This condition may only fully be discharged on completion of the development subject to satisfactory written evidence of contemporaneous supervision and monitoring of tree protection throughout construction by the appointed arboriculturalist.
- 8) The development shall be carried out in accordance with the conclusions and recommendations in Section 6 of the Preliminary Ecological Report including the biodiversity enhancements in sub-section 6.7 by Arbeco dated 3rd March 2017 and in accordance with the conclusions and recommendations in Sections 5 and 6 of the Bat Emergence Report by Arbeco dated 25th May 2017.
- 9) Prior to the first occupation of the development hereby permitted, the first floor flank windows shall be glazed with obscure glass and fitted with non-opening principal lights, and subsequently maintained in this form. Such glass shall be sufficiently obscure to prevent loss of privacy. The affixing of an obscure film will not be sufficient.