
Appeal Decision

Site visit made on 10 July 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 01 August 2019

Appeal Ref: APP/N1730/W/19/3228278

65 Frogmore Road, Blackwater, Camberley GU17 0DB

- 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 David Nott of Dariston Land and Development Ltd against the decision of Hart District Council.
 - The application Ref 19/00285/FUL, dated 07 February 2019, was refused by notice dated 9 April 2019.
 - The development proposed is described as, 'amended scheme for the erection of one detached dwelling, retention of existing garage & access, formation of new access & parking area to serve existing dwelling.'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Although the application form detailed the description of development as stated in the header above, from the evidence before me, during the application process the proposal was amended to include the removal of the existing garage and the Council determined the application on this basis. I have therefore assessed the appeal on the basis of the existing garage being removed as per drawing DRN 1962A.

Main Issues

3. The main issues are:
 - the effect of the proposed development on flood risk;
 - the effect of the proposed development on Heath Brow and Bourley and Long Valley Sites of Special Scientific Interest (SSSI) and Thames Basin Heaths Special Protection Area (SPA); and
 - the effect of the proposed development on the living conditions of the occupiers of 8 Bramley Close (No 8), with particular regard to outlook.

Reasons

Flood risk

4. The proposed access to the existing dwelling and proposed two parking spaces would lie within flood zones 2 and 3 and no flood risk assessment has been submitted with the application or appeal. While the document entitled 'Flood

map for planning' by the Environment Agency states that 'Your selected location is in flood zone 1, an area with a low probability of flooding', this appears to refer to a particular point on the map and not the whole of the appeal site. The map indicates that part of the site lies in zones 2 and 3 and the main parties agree that the northern part of the site lies within these flood zones. Given that the proposed access and parking spaces would require the alteration of the ground surface, it is likely that there may be a degree of displacement of flood water in the event of flooding.

5. I acknowledge that the parking areas would be constructed of a permeable material and would be at existing ground level, the garden area to the existing dwelling would remain largely unchanged and that the proposed dwelling may be connected to an existing sewer that runs in the road in front of the site. However, given the lack of a flood risk assessment including details of the proposed ground surface material, there has not been a demonstration that there would not be any adverse effect on flood risk and sustainable drainage would be achieved. Moreover, the National Planning Policy Framework (Framework) states that a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In addition, since there has not been a demonstration that any adverse effects on flood risk could be mitigated, there is no certainty that a condition would be effective.
6. On this basis there is a reasonable prospect that the proposal would have an adverse effect on flood risk and would conflict with Saved Policy GEN 11 of the Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policies April 2009 (LP) which states that development in areas liable to flood, or which would unacceptably increase the risk of flooding on other land, will not be permitted, unless appropriate and satisfactory alleviation or mitigation measures are included. It would also conflict with the Framework in this regard.

Heath Brow and Bourley and Long Valley Sites of Special Scientific Interest (SSSI) and Thames Basin Heaths Special Protection Area (SPA)

7. I note the reason for refusal regarding the SSSI and SPA. Had I found that the proposed development would not have a harmful impact on flood risk I would have found it necessary to investigate this matter in greater detail as part of my appropriate assessment. However, in the circumstances of this case this has not proved to be a determinative matter given the harm to flood risk that would arise from the development.
8. From the evidence before me it appears likely that the proposed development would give rise to at least some harm to the SSSI and SPA were that harm not to be mitigated. Although the appellant has expressed a willingness to enter into a Section 106 agreement to mitigate the effects on the SSSI and SPA, since none has been provided, there is no certainty that such mitigation would be secured.
9. While not determinative, as it has not been demonstrated that the proposal would not harm the SSSI and SPA, it would not accord with LP Saved Policies CON 1 and CON 2 which seek to protect SPAs and SSSIs. It would also fail to accord with Policy NRM6 of The South East Plan – Regional Spatial Strategy for the South East which relates to the Thames Basin Heaths SPA.

Living conditions

10. The proposed dwelling would be two storeys with a single storey element to the rear. No 8 is sited to the rear of the site with two unobscured windows and a smaller obscured window at first floor on the rear elevation facing the appeal site. While the proposed dwelling maybe visible from the upper windows of No 8, the separation distance between No 8 and the first floor of the proposed development would be substantial such that there would not be a material effect on the outlook of the occupiers of No 8 from the first-floor windows.
11. Furthermore, as well as the separation distance, the tall evergreen hedge and the tall fence at the boundary between the two properties would partially obscure the view of the proposed dwelling from the rear garden of No 8, such that the proposed development would not have a significant effect on outlook from this space.
12. Consequently, the proposed development would not harm the living conditions of the occupiers of No 8 with particular regard to outlook. Therefore, it would not conflict with LP Saved Policies GEN 1 and URB 12 which among other things seek development that does not result in material loss of amenity to adjoining residents.

Other Matters

13. I note the concerns of the neighbours including those regarding light, privacy, noise, highway safety and congestion, character and appearance and wildlife. However, the Council has not objected in these respects and from the evidence before me I see no reason to disagree.
14. I note the benefits of the proposal set out by the appellant, including the provision of a dwelling and associated social benefits. However, given the small scale of the development, these benefits would be limited and would not override the conflict with the development plan and Framework with regard to flood risk. In addition, while the proposal may not result in harm to the character and appearance of the area, this is a neutral point that does not carry weight in favour of the development.

Conclusion

15. For the reasons given above, the appeal is dismissed.

R Sabu

INSPECTOR