



Appeal Decision

Site visit made on 3 September 2019

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2019

Appeal Ref: APP/A3655/W/19/3229532 9 Westfield Avenue, Woking GU22 9PN

- 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 Mrs Jenny Press against the decision of Woking Borough Council.
 - The application Ref PLAN/2019/0026, dated 3 January 2019, was refused by notice dated 13 March 2019.
 - The development proposed is described as 'Part demolition of existing residential dwelling. Single storey rear extension, front entrance porch, loft conversion with front and rear dormer windows to existing dwelling. Proposed new residential dwelling built on the footprint of the demolished section of the existing dwelling.'
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Decision

1. The appeal is allowed and planning permission is granted for development described as *Part demolition of existing residential dwelling. Single storey rear extension, front entrance porch, loft conversion with front and rear dormer windows to existing dwelling. Proposed new residential dwelling built on the footprint of the demolished section of the existing dwelling* at 9 Westfield Avenue, Woking GU22 9PN in accordance with the terms of the application, Ref PLAN/2019/0026, dated 3 January 2019, subject to the conditions listed at Annex A.

Application for costs

2. An application for costs was made by Mrs Jenny Press against Woking Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have taken the address of the property from that listed on the Royal Mail website, given the different addresses listed on the application form and appeal form.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area
 - the effect of the proposal on the living conditions of future occupiers with particular regard to private amenity space
 - the effect of the proposal on the living conditions of nearby occupiers with particular regard to outlook and overlooking

- the effect of the proposal on the Thames Basin Heaths Special Protection Area.

Reasons

Character and appearance

5. The appeal site is located on the eastern side of Westfield Avenue, close to its junction with Maple Grove. This is a residential area containing a mix of traditional housing designs, set within garden fronted plots of land. Westfield Avenue is curved and contains footpaths and grass verges on both sides of the road in this vicinity, with a variety of boundary treatments to the residential properties.
6. The appeal site contains a traditional, pitched-roofed, single-storey dwelling, with a single storey side and rear extension of different design, lower height and significantly lesser massing. The extended dwelling spans the full width of the plot. To the front is a grassed garden area with a mature coniferous hedge by the front boundary wall, which largely screens the dwelling from view. Whilst not out of keeping with the character and appearance of this mixed, suburban area, the extended, existing dwelling has little intrinsic architectural merit.
7. There are two vehicular access points through the front boundary wall leading to a curved driveway in front of the house. However, only the southernmost access includes a hard-surfaced driveway across the grass verge which is served by a dropped kerb.
8. The proposed development would entail the sub-division of the plot into two sub-plots¹, served by the existing accesses to Westfield Avenue; the dropped kerb access to 11 Westfield Avenue and *Long Reach* would be extended to serve the northernmost sub-plot².
9. The single-storey extension of the existing dwelling would be demolished and a new detached gable-fronted 3-bedroom dwelling would be constructed on the southernmost sub-plot. The existing dwelling would be extended and altered to create a detached, 3-bedroom dwelling on the northernmost sub-plot.
10. The two dwellings would be separated by a gap some 1.03 metres wide and would have different designs but a generally similar scale and massing and the same orientation towards Westfield Avenue. The front elevation of the proposed southern dwelling would be positioned slightly forward of the northern dwelling, to follow the curve of Westfield Avenue.
11. Both dwellings would contain three off-street car parking spaces at the front, with boundary planting, as well as private rear gardens with patios. The front curtilage areas would be small compared to other properties nearby, given the reduced size of the sub-plots. However, their design, function and appearance would be in-keeping with the suburban character of the area. For the same reasons, the rear gardens would also be somewhat small, but would not be readily visible from public land. In combination, they would be similar in size

¹ The northern sub-plot is said to be some 13 metres wide whilst the southern sub-plot some 9 metres wide, but with a greater depth.

² The appellant has provided a decision notice that granted planning permission for an extension of a dropped kerb at the appeal address on 1 May 2019 (LPA ref. PLAN/2019/0225).

to the existing rear garden and would not be out of keeping with the area's character.

12. This part of Westfield Avenue is broad and winding, without a uniform building line, and with a considerable variety of dwelling styles and sizes, and some variety in orientation³. The two appeal dwellings would largely occupy the width of the sub-plots and whilst these would be manifestly narrower than the existing plot, they would not be significantly out-of-keeping with the different plot sizes to be found along this part of Westfield Avenue. Furthermore, the set-back positions of the proposed dwellings would be similar to other dwellings in this vicinity.
13. The proposal would represent an intensification of the use of the site. However, the footprint of the two dwellings would not be significantly different to the extended dwelling that they would replace. The scale, massing, position, orientation and traditional designs of the appeal dwellings would make a positive contribution to the character and appearance of this suburban area.
14. For these reasons, the proposed development would have an acceptable impact upon the character and appearance of the area and would therefore accord with Policies CS21 (design) and CS24 (landscape and townscape) of the Woking Core Strategy 2012 (WCS), and with the Framework, in this regard.

Living conditions of future occupiers

15. The main parties are in disagreement over the size of the rear gardens relative to the footprints of the proposed dwellings. The Council's position is that the size of the rear gardens would be significantly smaller than other rear gardens in the area and would also conflict with guidance contained in the *Outlook, Amenity, Privacy & Daylight* Supplementary Planning Document 2008 (SPD) concerning the size of the private amenity spaces relative to the gross floorspaces and footprints of the proposed dwellings.
16. The rear gardens would have regular, usable shapes and would include patio areas, a lawn and boundary planting. There is no evidence that they would receive inadequate sunlight, and the size, shape and position would enable sitting out, children's play, clothes-drying and plant cultivation to take place. Furthermore, the front gardens would also allow for plant cultivation.
17. From the evidence, the proposed rear gardens would be smaller than other nearby rear gardens. However, they would be of a similar size to the footprints of the proposed dwellings and in my view would provide acceptable living conditions for future occupiers with particular regard to private amenity space. They would therefore comply with Policies CS21 and CS24 of the WCS and with the Framework, in this regard.

Living conditions of nearby occupiers

18. The existing single-storey side / rear extension forms part of the boundary with 7 Westfield Avenue. The proposed dwelling that would replace it would be two storeys in height, however, its gable-fronted design and orientation would limit any impacts upon the living conditions of the occupiers of No 7. The proposed dwelling would be set back from the boundary by around 1 metre and would extend a similar distance to the rear as the existing extension. The eaves

³ Such as the dwelling at the corner of Lime Grove, to the southwest of the appeal site.

would be parallel to the boundary on the southern elevation closest to No 7 and would be at a similar height to the top of the existing side / rear extension.

19. The scale, design, orientation and position of the proposed dwelling means that it would not be overbearing and would not adversely affect the outlook from the rear of No 7. Furthermore, the difference between the existing situation and the proposed in terms of outlook from No 7 would not be significant.
20. The occupier of a property to the east of the appeal site⁴ has raised concerns regarding overlooking of their rear garden area and dwelling and consequent loss of privacy, from the rear upper floor windows of the proposed dwellings. From the evidence, the separation distances between the proposed upper floor rear windows and the boundary with the garden to the east would meet the minimum separation distance of 10 metres contained in the SPD, and more than meet the minimum back-to-back separation distance of 20 metres.
21. Furthermore, the submitted drawings show screening vegetation on both sides of the boundary, some of which I observed on site. In my view the proposed separation distances and the screening mean the appeal development would not cause unacceptable harm to the living conditions of the occupiers of 64 Westfield Road to the east.
22. For these reasons, the proposed development would not adversely affect the living conditions of nearby occupiers, with particular regard to outlook and overlooking. It would therefore accord with Policy CS21 of the WCS and with the Framework, in this regard.

Thames Basin Heaths Special Protection Area

23. The appeal site lies within a buffer zone, between 400 metres and 5 kilometres of the Thames Basin Heaths Special Protection Area (TBHSPA), which has been identified for its importance as habitat supporting breeding populations of three protected bird species: the Dartford Warbler; the Woodlark and the Nightjar.
24. The appeal development is not directly connected with or necessary for the management of the TBHSPA.
25. From the evidence, within the buffer zone visitor pressure resulting from new housing development is likely to have significant effects (either alone or in combination with other schemes) on the TBHSPA unless it is properly mitigated. Developers are therefore required to contribute towards such mitigation.
26. The Council has produced an avoidance strategy⁵ which draws upon advice provided by Natural England and provides guidance on the mitigation of the impacts of residential development on the TBHSPA. The mitigation approaches are:
 - The provision and maintenance of Suitable Alternative Natural Green Space (SANG) to attract people away from the SPA;
 - Strategic Access Management and Monitoring (SAMM) to monitor and manage the impact of people using the SPA; and

⁴ 64 Westfield Road.

⁵ Thames Basin Heaths Special Protection Area Avoidance Strategy 2010 - 2015

- Habitat management of the SPA to improve the habitats of the protected birds.
27. This strategy sets tariffs for residential development to contribute to SAMM and SANG mitigation measures and how they would be collected through the Community Infrastructure Levy (CIL) and Planning Obligations / Unilateral Undertakings.
28. Further to Regulation 63 (3) of the Habitats Regulations 2017, I have consulted Natural England as part of this assessment and had regard to their views in relation to this matter. Natural England has no objection to the proposal providing the appellant is complying with the Council's avoidance strategy and providing appropriate contributions to SANG and SAMM.
29. In this case, a total CIL contribution of £17,570.12 would be payable for the appeal development, which would encompass the SANG and landowner payments referred to above as set out in the avoidance strategy. A separate signed and dated Unilateral Undertaking (UU) for £897.00 for SAMM has been provided and the Council considers that the terms of the UU are acceptable with reference to the avoidance strategy.
30. Even visits generated by one house would be likely to have an incremental impact on the TBHSPA and in these circumstances the contributions would be necessary, directly related to the development and fair and reasonable in scale and kind⁶.
31. I am therefore satisfied that the proposed contributions would be sufficient to mitigate any adverse effects on the TBHSPA and would be both necessary and legitimate in this case. Therefore, the proposed development would not conflict with Policies CS8 of the WCS and saved Policy NRM6 of the South East Plan 2009, which both concern the TBHSPA, Policy DM11 (sub-divisions) of the Woking Development Management Policies 2015.

Other Matters

32. The Council raises concerns that the proposal, if allowed, may set a precedent for similar proposals to sub-divide existing residential plots along Westfield Avenue. However, as the Council itself notes, each proposal should be considered on its individual merits, which is what I have done in this case, as set out above.

Conditions and Conclusion

33. The Council has suggested a number of conditions be attached to the grant of planning permission should the appeal be allowed, which I have considered in light of Government guidance. In addition to the standard commencement condition, a condition specifying the approved drawings would be necessary for reasons of certainty.
34. A pre-commencement condition concerning the materials to be used in the appeal development would be manifestly necessary to protect the character and appearance of the area.

⁶ The three tests in the Community Infrastructure Regulations 2010 and paragraph 56 of the National Planning Policy framework.

35. A pre-commencement condition concerning a landscaping scheme for the development hereby permitted would be necessary to protect the character and appearance of the area.
36. A condition requiring amendments to the vehicular access to the site to be undertaken prior to first occupation would be necessary to protect highway safety.
37. A condition excluding the appeal development from certain classes of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) would be necessary to protect the character and appearance of the area and the living conditions of future and nearby occupiers.
38. A pre-commencement condition concerning the approval of tree protection details and measures would be manifestly necessary to protect the character and appearance of the area.
39. Conditions concerning evidence that the appeal development would achieve standards contained in the Building Regulations would not be necessary, relevant to planning or reasonable.
40. A condition specifying the floor to window cill height in the roofspace would not be necessary given the details shown on the approved drawings.
41. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be allowed.

Andrew Parkin

INSPECTOR

Annex A – Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. Prior to the commencement of the development hereby permitted details and/or samples and a written specification of the materials to be used in the external elevations, hard surfaced areas and boundary treatments shall be submitted to and approved in writing by the Local planning Authority. The development shall be carried out and thereafter retained in accordance with the approved plans.
3. The development hereby permitted shall be carried out in accordance with the submitted plans:
 - Site Location Plan
 - Drawing No: PROP/SITE PLAN/01/am
 - Drawing No. H1/PROP/ELEs/ROOF/01
 - Drawing No. H1/PROP/PLANS/HEIGHTS/01
 - Drawing No. H2/PROP/ELEs/ROOF/01
 - Drawing No. H2/PROP/PLANS/HEIGHTS/01
4. Prior to the commencement of development hereby permitted a soft and hard landscaping scheme including additional screening along all boundaries shall be submitted to and approved in writing by the Local Planning Authority; such a scheme to include details of materials, the planting of trees, hedges, shrubs, plants and areas to be grassed. The soft landscaping shall be carried out in the first planting season (November-March) after completion of the development unless otherwise first agreed in writing by the Local Planning Authority. Any retained or newly planted trees, shrubs or hedges which die, become seriously damaged or diseased or are removed or destroyed within a period of 5 years from the date of planning shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
5. No part of the development shall be occupied unless and until the proposed modified vehicular access to Westfield Avenue has been constructed in accordance with the approved plans and thereafter shall be kept permanently maintained.
6. Notwithstanding the provisions of Article 3 and Schedule 2, Part 1 and Classes A, B, C, E and F of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (or any orders amending or re-enacting that Order with or without modification) no extension, enlargement or other alteration of the dwelling or the provision of any other building or hardstanding within the curtilage other than as expressly authorised by this permission shall be carried out without planning permission being first obtained from the Local Planning Authority.

7. No development-related works shall be undertaken on site (including clearance and demolition) until tree protection details have been submitted to and approved in writing by the Local Planning Authority. These details shall adhere to the principles embodied in BS 5837 (2012) and shall include a Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement. The details shall make provision for the convening of a pre-commencement meeting and Arboricultural supervision by a suitably qualified and experienced Arboricultural Consultant for works within the RPAs of retained trees. Full details shall be provided to indicate exactly how and when the retained trees will be protected during the site works. The development shall be carried out strictly in accordance with the agreed details.