
Appeal Decision

Site visit made on 19 November 2019

by Jonathon Parsons MSc BSc DipTP (Cert Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2019

Appeal Ref: APP/N1730/W/19/3236705

121 Clarence Road, Fleet, GU51 3RS

- 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 P Alexander against the decision of Hart District Council.
 - The application Ref 19/00699/FUL, dated 21 March 2019, was refused by notice dated 11 June 2019.
 - The development proposed is the erection of a detached house following the demolition of the existing double garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Alternative elevation and floor layout plans have been submitted. For the proposed dwelling, they show the obscure glazing of first floor rear windows up to 1.7m above internal floor level. The plans do not materially change the nature of the application and they seek to address an overlooking issue raised in the Council's reason for refusal. Thus, the appeal process has given parties adequate opportunity to comment and for all these reasons, there should be no prejudice caused to them in making comments. Accordingly, these plans have been considered in this appeal.

Main Issues

3. The main issues are the effect of the proposal on (a) the living conditions of the occupiers of neighbouring properties, having regard to outlook, light and privacy, (b) the integrity of the Thames Basin Heaths Special Protection Area (TBHSPA) and (c) the character and appearance of the area.

Reasons

Living conditions

3. The dwelling would flank onto the dwellings at 121 Clarence Road and 117 Clarence Road (Ash Cottage). It would also back onto the garden of the dwelling at the Mallards on Upper Street.
4. The common boundary between the appeal site and the garden of the Mallards consists of a timber fence. Under permitted development rights, boundary treatments could be erected up to a height of 2m. From the appeal site, there is a downward slope to the common boundary and the garden of the neighbouring property beyond. As a result, the kitchen/living ground floor

windows and glazed patio doors would be at a higher level than the garden of this property. The separation between the kitchen/living room windows and the glazed patio doors, and the neighbour's garden would be approximately 5.4m and 6.8m respectively. Given the topography and closeness, there would be a significant loss of privacy to the neighbouring occupiers using their garden. In this regard, there are no details on existing and finished ground levels.

5. The first floor would provide a bedroom and landing area. An appeal decision has been drawn to my attention where an Inspector considered bedrooms would be mainly used for sleeping and therefore have limited outlook. However, proposals are rarely the same in nature and context, and every proposal has to be considered on its particular merits. In this appeal, the bedroom window would be a large 3 paned window and although smaller, the landing window, would remain a modest 2 paned sized window. The windows would be elevated relative to the neighbour's garden and the bedroom window would be approximately 6.8m away.
6. Consequently, the alternative plans showing the obscure glazing of these windows are necessary to overcome a significant loss of privacy for the neighbours. Whilst obscure glazing would affect outlook, this would not be so deficient as to warrant withholding planning permission in this instance. Nevertheless, first floor obscure glazing would not address the adverse loss of privacy from the ground floor windows.
7. There is an existing first floor window on the extended part of No 121 that faces the rear garden of the Mallards. Nevertheless, the proposal would add significantly to this by reason of the additional ground floor openings. Some vegetation exists on both sides of the common boundary but this is limited. In any case, there is no guarantee that this would remain in perpetuity because vegetation can disappear for any number of reasons, storm damage, disease or by accident. Deciduous vegetation also has a lesser screening effect during winter when leaves are dropped. For all these reasons, there would be an unacceptable loss of privacy to the occupiers of the Mallards.
8. The two storey part of the new dwelling would not extend out significantly beyond the rear of the neighbouring dwelling at No 117. Beyond the two storey part of the new dwelling, there would be a low-level single storey projection. It has been designed with a low pitched roof with flat roof behind. There would be no flank windows facing the neighbouring property. As a result, there would be no significant loss of outlook or light to the neighbouring dwelling and its garden.
9. In relation to No 121, the two storey part of the new dwelling would extend as far as the rear building line of this neighbouring dwelling. Beyond the rear building line, there would be just a single storey element with a hipped and flat roofed design. It would not extend beyond the rear building line by a great distance. No 121 has a flank window and glazed door. The window serves a front room which has another window serving it on the front elevation whilst the glazed door serves a utility room, a non-habitable room in terms of living areas. Consequently, there would be no significant loss of outlook or light to the occupiers of this neighbouring dwelling.
10. For all these reasons, there would be harm to the living conditions of the occupiers of the neighbouring property at the Mallards by reason of material

loss of amenity, namely privacy. Accordingly, the proposal would conflict with policies GEN1 and URB12 of the Hart District Local Plan (LP) (Replacement) 1996-2006 and First Alterations 2009.

Special Protection Area

11. The SPA holds internationally important populations of specific heathland bird species which tend to nest close or near to the ground. Long Valley Site of Special Scientific Interest forms part of the SPA. The Council's Interim Avoidance Strategy for the TBHSPA First Revision 2010 (the Strategy) details the adverse effects of urbanisation, especially recreational disturbance, on the nesting of these birds. Residents from the new development would be able to access the SPA, including for recreation such as dog walking, which could adversely affect the breeding birds. Therefore, the proposal would have a significant effect, either alone, or in combination with other plans or projects on the internationally important features of the SPA. The nature conservation objectives of the SPA include maintaining favourable conditions for the populations of these birds protected under Annex 1 of the Birds Directive. Thus, it cannot be ascertained that the proposal would not affect the integrity of the SPA.
12. The Strategy sets out avoidance and mitigation measures, Suitable Alternative Natural Spaces (SANG) and Strategic Access Management and Monitoring (SAMM). The SANG mitigation covers the provision of new space infrastructure and the maintenance, administration, and facilitation costs of those spaces. The SAMM contribution would be for the promotion of SANGs for recreation, wardens, the provision of volunteers, and visitor monitoring and best practice. Despite the appellant's willingness to enter into an agreement, there is no mechanism before me to secure these or alternative mitigation measures. No alternative solutions have been put forward that would have a lesser effect, or avoid an adverse effect, on the integrity of the SPA, and nor do I consider any possible based on the nature of the proposal and the appeal documentation.
13. Priority species would be adversely affected by the proposal and there are no imperative reasons of overriding public interest for such a small-scale proposal. On this basis, planning permission should be refused. The development would adversely affect the integrity of the SPA alone or in combination with other projects coming forward. For all these reasons, the proposal would conflict with policy NRM6 of the South East Plan (SEP) 2006, policies CON1 and CON2 of LP.

Character and appearance

14. The appeal site comprises an access drive and hardstanding, detached double garage and garden to the side of the dwelling at 121 Clarence Road, which is at the corner of Clarence Road and Upper Street. The surrounding area is varied with a mixture of terraced and detached housing, blocks of flats, a builder's merchant and a church resulting from the conversion and extension of a dwelling. Many of the buildings are closely sited to another. Opposite the appeal site, there is a flat block development being built. For all these reasons, the immediate area has a mixed built-up character and appearance.
15. The proposed dwelling would take up a large proportion and almost the entire width of its plot. It would have a smaller building-to-plot ratio than most of the surrounding dwellings. However, the area has a mixed built-up character and

appearance. The dwelling's roof would be hipped and mid-point in height between the pitched roofs of the adjacent properties. The space about its flanks would not be markedly different to many other properties in the area. Whilst its rear garden depth would be shorter than many of the dwellings in the area, there is dense block of flats being erected opposite. The depth of garden would also be not dissimilar to two dwellings located on the south west corner of the crossroad junction of Clarence Road and Upper Street, and the existing dwelling at No 121.

16. For all these reasons, the development would be in keeping with local character, sustain urban design principles, be sympathetic in scale, design, massing, height and siting, and complement and be well integrated with neighbouring properties. Accordingly, it would comply with policy GEN1, GEN4 and URB12 of the LP and policy 10 of the Submission Fleet Neighbourhood Plan.

Other matters

17. The development would support the local economy by contributing to the supply of suitably-located housing. Occupants would support the use of local facilities and businesses. The additional unit of housing would be in an appropriate location which would create a vibrant local community. Occupants would have good access to public transport. The sub-division of the existing plot to facilitate an additional dwelling would represent an efficient use of currently under-utilised land. However, the benefits would be limited for one dwelling and there would be significant harm to the living conditions of the occupiers of a neighbouring property and there would be ecological harm by virtue of an adverse effect on the integrity of the SPA. Therefore, even if I applied the tilted balance test under the National Planning Policy Framework (the Framework), the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, and the presumption of favour of sustainable development would not apply.

Conclusion

18. The identified harms would result in conflict with the policies of the LP and SEP, and the development plan as a whole. Material considerations would not be of sufficient weight or importance to determine that the decision should be taken otherwise than in accordance with the development plan and therefore planning permission should be refused. For the reasons given above and having regard to all other matters raised, the appeal is dismissed.

Jonathon Parsons

INSPECTOR