



Appeal Decision

Site visit made on 25 November 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2019

Appeal Ref: APP/N1730/W/19/3235896

**Car park adjacent to Meadows Business Park, Station Approach,
Blackwater, Camberley, Surrey**

- 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 Charles, on behalf of E & S Properties Ltd, against the decision of Hart District Council.
 - The application Ref 19/00429/FUL, dated 26 February 2019, was refused by notice dated 20 June 2019.
 - The development proposed is the demolition of 32 existing garages and the construction of an apartment building consisting of 11no. apartments, landscaping and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal is supported by evidence that was not before the Council at the time of making its decision. These include 3 sectional drawings, a cross section of the site, a shadow diagram and rendered 3D images. As details these only seek to clarify elements already proposed, I shall take these into account in my decision, without prejudice to any party.
3. The Draft Hart Local Plan – Strategy and Sites (DHLP) was subject to examination in 2018. The Inspector’s initial letter does not require any Main Modifications. The Council’s current timetable for adoption is early next year. The Council has identified a range of policies in its Statement of Case that it considers to be relevant to the proposal. These are policies SD1, SS1, H1, H6, NBE4, NBE10, NBE12 and I3. I have also afforded significant weight to these policies. I have taken them into account in my consideration of the appeal. I do not find any party would be prejudiced by my doing so.
4. The appeal is supported with a draft S106 Legal Agreement. Its intention is to mitigate any impact of the development on the Thames Basin Heaths Special Protection Area (TBHSPA).
5. For clarity, I have used the address provided on the appeal form and the Council’s Decision Notice, rather than that found on the application form.

Main Issues

6. The main issues are:

- the effect of the proposed development on the living conditions of adjoining properties, with respect to outlook and privacy, and on future occupiers in regard to outlook and access to sunlight and daylight,
- the effect of the proposal on highway safety, especially in regard to parking provision and related manoeuvring arrangements around the access, and
- the effect of the proposal on the Castle Bottom to Yatley and Hawley Commons Site of Special Scientific Interest, which is part of the TBHSPA.

Reasons

Living Conditions

7. The site, the subject of this appeal, is a garage courtyard behind dwellings. It is also adjacent to a small commercial estate and a parade of mixed-use development. The proposal would include the demolition of the existing garages and the erection of a three-storey building to the rear of the site. The nearest dwellings, to the proposal, are 19 to 24 Rycroft Gardens. These are two-storey maisonettes. They have short rear gardens.
8. The rear outlook of the ground and first-floor flats of No's 23 and 24 would be most affected by the proposal. The section plan shows the relationship of the site and adjacent buildings in both the existing and proposed contexts. The existing garage block has a mono pitched roof design. The rear wall is therefore higher than its front elevation. As a consequence, the existing ground-floor flats would benefit from the demolition of the garage block in terms of access to daylight and sunlight. This would also improve the outlook of the nearest ground floor flats to some extent.
9. Nevertheless, although the proposal would be further from the flats, it would also be substantially taller than the existing garages and be of significant width. The proposal would consequently present a substantial mass beyond the rear elevation of the adjacent residential block. Furthermore, being taller than the adjacent dwellings the proposal would be a dominant addition to their rear outlook with only a limited separation distance. Accordingly, the proposal would fundamentally alter the rear outlook for neighbouring occupiers. The effect would not be similar to a two-storey building with a pitched roof. The impact would be much greater as the second floor would be almost the full footprint of the building. Consequently, the proposal would be substantially harmful to the outlook of living conditions of occupiers of 21-24 Rycroft Gardens.
10. The proposed building would be to the southeast of the neighbours. The shadow diagram shows that midday sunlight would have only a limited effect on neighbouring residents. As such, it is considered that the proposal would not significantly overshadow the neighbouring properties.
11. Turning to considerations of privacy, the proposed development would include side windows and balconies that would look towards the rear elevation of

dwellings of Rycroft gardens. The first-floor would include oriel windows that would angle views to the rear of the site and also includes obscure glazing window and privacy screen to the front facing balcony. These measures would help reduce the effect of overlooking. However, the rear balcony and main living space for flats 6 and 10 would result in substantial overlooking towards the existing flats. Although further screening could be introduced, the effect to the design of the building would be unsatisfactory. The proposal would therefore have a harmful effect on the living conditions of neighbouring dwellings in terms of outlook and privacy.

12. In regard to the living conditions of future occupiers, proposed flats 2 and 3 would have a side and rear aspect. These units would have a bedroom that includes a triangular oriel window and include a blank pane. This would guide views towards proposed landscaping, rather than the relatively close rear boundary fence. The area beyond the fence line is a relatively open aspect leading to an acceptable outlook. Furthermore, the provided sections illustrate that these flats would gain adequate access to daylight. Being largely north facing the rear elevation would gain limited access to direct sunlight. However, this is relatively common characteristic of an urban environment. Consequently, the flats would result in the creation of satisfactory living conditions for future residents in terms of outlook and access to sunlight and daylight.
13. Consequently, the proposal would not accord with saved policies GEN1 and URB12 of the Hart District Local Plan 2009 (LP) which seek development that would not result in a material loss of amenity for adjoining residential uses. These policies are consistent with the National Planning Policy Framework (The Framework), which seeks development that creates places with a high standard of amenity for existing users. The proposal would also not accord with policy NBE10 of the DHLP, which seeks development to respect or enhance views into and out of a site.

Highway safety

14. In regard to highway safety, the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. Rycroft Gardens is a small cul-de-sac serving residential properties. On my visit I observed that on-street parking was relatively high, some straddling footways. I saw some on-plot parking, but this was by exception and in the minority. I also saw garage courtyards and parking areas which appeared to be in use. I have also seen concerns in regard to over-spill parking in representations from local residents and the Town Council. I therefore conclude that on-street parking is relatively congested.
15. Saved policy T14 of the LP relates to transport and development. This policy states that development will be permitted provided it can be served effectively by public transport, located where a choice of transport can be provided and makes adequate provision for safety, access, internal layout and parking. The policies supporting paragraphs state that parking requirements are set out as maximums in supplementary guidance or the Hampshire County Standards.
16. The Framework states that if setting local parking standards policies should take into account the accessibility, the availability and opportunities for public

transport. The Council's parking standards¹ identifies the site as being within zone 1, being within 400m of Blackwater Station. These reduced parking requirements take into account the site's accessible location where alternative modes of transport are available. Although this guidance predates the Framework by a number of years, I find its approach to be reasonable. The proposal would therefore provide an inadequate parking provision. Furthermore, the identified on-street parking congestion would prevent the provision of convenient overspill parking. Although local on-street parking could be the result of a number of activities, comments made in representations and my own site observations, satisfy me that additional on-street parking would be likely to be hazardous and frequent.

17. Moreover, the proposed layout of parking and the shape of the site would create some pinch-points. This would reduce on-site manoeuvrability especially for larger vehicles such as refuse trucks and delivery vehicles. On-site turning would be provided, using a geotextile material, for a fire engine. A tracking plan has been provided² that indicates that a fire engine could turn within this space. The appellant has confirmed that refuse bins would be moved to the entrance of the site for collection. However, with limited space at the entrance this would appear to be an awkward arrangement. Placing bins in the access, even temporarily, would be likely to substantially affect the functionality of the access and the car parking area generally.
18. Furthermore, delivery vehicles would still need to turn within the site. The proposed turning area would be reliant on there being no obstructions within the parking area to achieve successful and safe turning. However, the car parking area would be awkward and congested. It is therefore unconvincing that on-site turning would be realistic or meet the requirements of the site. Consequently, the proposal would result in the creation of a layout that would have a substandard access and on-site manoeuvring areas. This would therefore be likely to result in vehicles being both delayed in the public highway and reversing out of the site. This, in combination with existing off-site parking congestion, would result in an unacceptable impact on the local highway and affect the safety of highway users.
19. Consequently, the proposal would not accord with saved policies GEN1 and T14 of the LP, which seek amongst other things for development to have adequate arrangements for access, servicing and parking and make adequate provision for highway safety. The proposal would also be contrary to policy I3 of the DHLP, which seeks development to provide safe, suitable and convenient access for all potential users.

Special protection area

20. The site is within the 5km zone of influence of the TBHSPA. The significance of which derives from its habitat value for three heathland species of birds; the Dartmouth Warbler, Nightjar and Woodlark. Policy NRM6 of the South East Plan- Regional Spatial Strategy for the South East (2009) requires that development, that is likely to have a significant effect on the ecological integrity of the TBHSPA, will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effect.

¹ Hart District Council, Parking Provision-Adopted Interim Guidance August 2008

² Fire Tracking Plan drawing reference RCG-113 rev A

21. The Council's delivery Framework³ sets out the recommendations of the Thames Basin Heaths Joint Strategic Partnership Board. The delivery Framework identifies that all net new residential development, when considered in isolation or in combination with other plans, is likely to have a significant effect on the TBHSPA. Due to its proximity to the site there is a reasonable likelihood that it would be accessed for recreational purposes by future occupiers of the development. Although this may be minimal by itself, a significant effect on the integrity of the TBHSPA would occur, when considered in combination with other residential development in the surrounding area.
22. In 2018 the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage⁴. This responsibility now falls to me within this appeal. Such an assessment is necessary regardless of the status of the policies of the development plan.
23. Had I been minded to allow the appeal, it would have been necessary for me to seek additional information from the parties and consult Natural England in order to undertake the AA. The AA is required on a case-by-case basis to determine whether or not the project would adversely affect the integrity of the site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective and could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal.

Other matters

24. The Council has a 5-year housing supply. It explains that its most recent housing figures show a supply of 9.9 years. Therefore, whilst the appellant may have identified some short-comings in the borough's delivery rates I am satisfied that the Council's housing policies are up to date.
25. The appellant reports that the site has been a source of anti-social activity in the past. The proposal would include a range of security measures. However, the existing anti-social issues are referenced with only limited evidence and accordingly I can only afford the benefit of new security measures limited weight in the planning balance.

Planning balance and conclusion

26. The Framework seeks to significantly boost the supply of housing and the reuse of previously developed land. Main parties agree the site is suitable for residential development in principle. The local area includes a variety of architectural styles. Buildings that face onto London Road are between two and four stories. Whereas, buildings to the rear are mostly two storey and of a finer grain. The proposal would be a contemporary design with articulation to soften the form. Consequently, the proposal would make a positive contribution to the character and appearance of the area. However, it would also result in harm to the living conditions of adjacent neighbours and to highway safety which are of over-riding importance in this context.

³ Thames Basin Heaths Special Protection Area Delivery Framework 2009

⁴ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

27. The proposed landscaping, and the removal of the hardstanding and garages, would be of benefit to the site and surrounding area. It would also remove a underused site that could attract anti-social behaviour. However, these benefits would not be outweighed by the harm I have identified to the development plan.

28. For the above reasons the appeal is dismissed.

Ben Plenty

INSPECTOR