



Appeal Decision

Site visit made on 10 March 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th April 2020

Appeal Ref: APP/N1730/W/18/3218121

72 Frogmore Road, Blackwater, Camberley GU17 0DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Roger Dunn against the decision of Hart District Council.
 - The application Ref 18/01160/FUL, is dated 29 May 2018.
 - The development proposed is the extension and conversion of a double garage to form a new 2-bedroomed dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The Council did not consider the application valid and therefore did not determine the current proposal within the prescribed period. However, its statement of case clarifies that it would have refused it for four reasons. Having considered these reasons, I consider that the main issues are the effect of the proposal on;
 - the character and appearance of the area;
 - highway safety; and
 - the living conditions of the occupants of No 72 Frogmore Road, with particular regard to privacy.

Reasons

Character and Appearance

3. Frogmore Road is a residential street characterised by a mix of dwelling types. No 72 is a detached, two storey, property with a single storey garage at the end of its large rear garden. It is positioned on the eastern side of the carriageway. The prevailing layout of nearby residential development along this side of the street is of dwellings set behind relatively small front gardens with larger gardens to the rear. This common layout gives the spatial pattern of these properties a sense of rhythm and uniformity. Although No 72's plot is larger than nearby plots, its layout harmonises with this spatial pattern.
4. This proposal seeks planning permission to extend the existing garage to facilitate its conversion into a separate, two-bedroomed, dwelling. This would subdivide the existing plot. The proposed extension would be acceptable in

scale and appropriate external materials could be used for the new dwelling. Nevertheless, it would be sited to the rear of an existing property, on its rear and side boundaries with a small garden to its front or side. Consequently, the proposal's layout would be markedly different to that of nearby properties along this side of Frogmore Road and would disrupt their rhythm and uniformity. The scheme would also decrease the size of the rear garden at No 72 which would exacerbate this harm. Furthermore, in this context I also consider that the proposal would appear unduly cramped upon its plot in relation to its size.

5. Taking the above into account, notwithstanding any pre-application advice given by the Council for development at this site, I find that the scheme would represent an inappropriate feature that would fail to integrate effectively with the spatial pattern of surrounding built form. Its harmful impact would be apparent from the rear of several surrounding properties. I note that permission has been granted¹ for the change of use of the garage to habitable accommodation. However, this would be ancillary to No 72 and would not subdivide its plot. Consequently, this scheme is not directly comparable to the appeal proposal and is not a reason to set aside the harm I have identified.
6. For the reasons given, I conclude that the proposal would unacceptably harm the character and appearance of the area. It would therefore conflict with saved Policies GEN1, GEN4 and URB12 of the Hart District Local Plan (Replacement) and First Alterations to the Hart District Local Plan (Replacement) (LP) and Policy NBE10 of the emerging Hart Local Plan Strategy and Sites (ELP). Amongst other things, these seek to ensure that developments are in keeping with local character in terms of their layout and siting and positively contribute to the overall appearance of the local area.
7. Turning to the National Planning Policy Framework (the Framework), this seeks to maximise the efficient use of land and states that small and medium sites can make a contribution towards housing needs. However, this should not be at the expense of achieving high quality development which functions well and adds to the quality of the area. I have found that the proposal would not achieve this. There is therefore conflict with the design objectives of the Framework.

Highway Safety

8. It is proposed that a new vehicular access onto Frogmore Road and two off-street parking spaces would be created for the proposal. This would be facilitated through the sale of land to the side of No 70 Frogmore Road which falls outside of the appeal site. The Council's third reason for refusal within its statement concerns the highway safety implications of this arrangement.
9. Although the site is close to services and facilities, it is reasonable to assume that future occupants would own at least one private vehicle. Whilst the appellant has an agreement in principle to purchase the land to the side of No 70, this sale does not appear to have taken place. Neither has it been secured through the completion of a legal agreement. It would also not be reasonable to secure this through the imposition of an appropriately worded condition, with regards to the tests set out at paragraph 55 of the Framework. There is therefore no guarantee that land to the side of No 70 would be

¹ Ref. 16/02064/HOU

transferred to the appellant. Consequently, for the purposes of this assessment, I cannot be certain that any new access or off-street parking spaces would be provided. Private vehicles used by future occupants would therefore have to find somewhere to park on-street.

10. Although there are on-street parking restrictions along the western side of Frogmore Road, on my site visit I observed parking availability along the eastern side of this carriageway. Should parking occur here, flow along the carriageway would be restricted to a degree. However, I have no substantive evidence to show that existing on-street parking in this part of the street has resulted in hazardous conditions for motorists and pedestrians. Given the scale of the proposal, I therefore find that any associated displaced parking here would be unlikely to cause a significant risk to users of the highway.
11. The occupiers of the development would not be wholly reliant on a private car for their day-to-day needs. However, taking the above into account, even if they were, I am not persuaded that the on-street parking of such vehicles would be to the significant detriment of the free and safe movement of vehicles and other users of the public highway.
12. As such, I conclude that the proposal would not adversely affect highway safety. It would therefore accord with saved Policies GEN1 and T14 of the LP and Policy 13 of the ELP. Amongst other things, these seek to ensure that proposals do not have a severe impact on the operation or safety of local highway networks and are generally acceptable in terms of highway safety. The scheme would also accord with the Framework which states that developments should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Living Conditions

13. The proposal would be single storey and, on balance, its front facing windows would be a sufficient distance away from the rear elevation of No 72. In addition, if minded to permit this appeal, some form of boundary treatment could be secured to the front of the proposed dwelling via the imposition of an appropriately worded condition. This would further reduce direct overlooking and the perception of overlooking towards this existing property.
14. For the above reasons, I conclude that the proposal would not result in significant harm to the living conditions of the occupants of No 72 in terms of privacy. It would therefore accord with saved Policy GEN1 of the LP insofar as it seeks to ensure that proposals cause no material loss of amenity to adjoining residential uses through loss of privacy. It would also accord with the Framework insofar as it seeks to secure a high standard of amenity for existing users.

Other Consideration – Special Protection Area

15. From the evidence before me, the proposal could have an impact upon the Thames Basin Heaths Special Protection Area, which is a protected European site. Natural England has provided revised advice regarding the need to ensure that new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. In this case, it would appear that the Council would usually

request mitigation in the form of contributions towards Suitable Alternative Natural Greenspace and Strategic Access Management and Monitoring.

16. However, the Court of Justice of the European Union has 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 stage². As the competent authority, if I had been minded to allow the appeal it would have therefore been necessary for me to go back to the parties to seek further information in order to undertake an AA for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Other Matters

17. The Council's statement raises concerns with various other aspects of this scheme which are not referenced in its reasons for refusal. These include matters relating to flood risk and bin storage. However, given I am dismissing this appeal for a substantive reason, I have not considered these matters further as they are not determinative to my decision.
18. I note that there is a dispute between the main parties as to whether or not the original application was valid. As a consequence, no consultations have taken place. However, this has had no bearing on my assessment of the planning merits of this scheme and has not altered the course of my decision. I have therefore not taken this matter any further.
19. In addition, any concerns regarding due process during the Council's processing of the planning application fall outside of the remit of this decision.

Planning Balance

20. The Government is seeking to significantly boost the supply of housing. Although the principle of residential development at this site would be acceptable in this accessible location, the proposal for a single dwelling would make only a minimal contribution to the Council's housing stock. Similarly, the economic benefits of the proposal would also be minimal and would primarily relate to short-term employment during the construction period. In this context, I give limited weight to these social and economic benefits.
21. I have found that the proposal would not harm the living conditions of the occupants at No 72 in terms of privacy. Neither would it prejudice highway safety. It would also be acceptable in other respects. For example, it would not cause harm to the living conditions at surrounding properties in terms of outlook and access to daylight. However, these are requirements of the development plan and are therefore neutral factors in the overall balance.
22. On the other hand, the scheme would result in harm to the character and appearance of the area. It would therefore fail the environmental objective of the Framework insofar as it seeks to ensure that developments contribute to protecting and enhancing our built environment. This attracts significant weight against the proposal.
23. Taking the above factors into consideration, the adverse effects would outweigh the benefits associated with the provision of one dwelling. The

² People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

proposal conflicts with the development plan and there are no material considerations, including the advice of the Framework, which outweigh this conflict.

Conclusion

24. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

M Heron

INSPECTOR