
Appeal Decision

Site visit made on 4 January 2021

by Mr Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2021

Appeal Ref: APP/D3640/W/20/3256583
101 Park Street, Camberley GU15 3NU

- 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 Hassan Mokarrami against the decision of Surrey Heath Borough Council.
 - The application Ref 20/0206/FFU, dated 28 February 2020, was refused by notice dated 24 April 2020.
 - The development proposed is a two-storey side and rear extension and two-storey first floor rear extension including rear dormer and front rooflights to facilitate conversion of existing dwelling to three flats.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The Habitat Regulations (2017) were subject to changes in 2019 through the Conservation of Habitats and Species (Amendment)(EU exit) Regulations 2019. This has made a number of changes to the 2017 Regulations, in particular with respect to the creation of a national site network and the management functions of this network. These changes came into effect from 1 January 2021. However, the obligations of a competent authority for the protection of sites and species do not change. Given the general nature of these changes it has not been necessary to seek the views of the main parties on their implications for the present case.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to the effect on 82 Middle Gordan Road (No 82) with respect to privacy; and
 - whether the proposal would affect the integrity of the Thames Basin Heaths Special Protection Area (TBHSPA).

Reasons

Character and appearance

4. The appeal site contains a semi-detached property within a short row of 4 similar dwellings. These four traditional properties have shared characteristics, such as built form and style including hipped roofs and traditional bay windows. This row, together with 105 Park Street, form a close-knit group of buildings that create a relatively hard urban edge to the highway. The Council's Western Urban Area Character (WUAC)¹ document also identifies that the area streets scenes that are generally hard edged and enclosed by buildings. The row has been adapted over time, with side extensions at No's 103 and 99 Park Street (No's 103 and 99). Furthermore, the appeal dwelling includes a pebble dash render and a projecting porch. This results in it being distinct from the remaining brick buildings in the row. The appeal site therefore makes a neutral contribution to the character and appearance of the area.
5. The proposal would include the addition of a two-storey side extension and a rear dormer window. Its design would follow the established window form of the existing dwelling. Also, the eaves and ridge would be subservient to the main dwelling. The width and general form of the proposal would also be similar to the extension found at No 103, although this is set back further and appears to be narrower than the proposed side extension. Furthermore, this neighbour's extension appears to be slightly narrower than shown on the proposed streetscene drawing. However, these differences are not fundamental, and the side extensions would have more in common than features of contrast. The proposed side extension would have subservient characteristics in comparison to the host dwelling and would regain symmetry between the pair of semi-detached dwellings. These design benefits would outweigh the identified minor differences in design approach and scale.
6. There is an existing gap to the side of the dwelling, this mimics to some extent, the gap to the side of No 99, occupied by a side conservatory. However, the gap itself makes a limited contribution to the street. Therefore, whilst infilling an existing space between buildings, the proposal would not result in the loss of a significant gap. The proposal would therefore also not appear cramped in the streetscene which is already otherwise largely occupied by build form. Furthermore, although the proposed rear extensions would include a partly disjointed roof form, the effect of this would be limited in the streetscene. As a result, the proposal would make a positive contribution towards the character and appearance of the area.
7. Consequently, the proposal would accord with policy DM9 of the Surrey Heath Core Strategy & Development management Policies 2012 (CS) relating to character and appearance. This seeks development to maximise linkages to the surrounding area that respect the historic character of its environment. Furthermore, the proposal would comply with Guiding Principle VS1 of the WUAC Supplementary Planning Document 2012. This seeks development to reflect architectural detailing, scale and massing and strongly address the road frontage.

¹ Western Urban Area Character (WUAC) Supplementary Planning Document 2012

Living conditions

8. The dwelling is within a relatively small plot with limited space between its rear elevation and the rear boundary. Furthermore, the proposed two-storey rear extension would reduce the separation distance to the rear boundary to around 6 metres. The rear boundary consists of a fence and some boundary planting. The boundary planting would partially screen views of the development. However, due to the orientation of No 82, overlooking into the garden, and oblique overlooking into rear windows, would occur. This would be exacerbated by the proposed use of the first-floor rooms that would include a living area that would be used throughout the day. Consequently, due to the proximity and relationship to the garden and rear windows of No 82, the proposal would result in a substantial level of overlooking.
9. The existing dwelling has two rear facing windows at first floor. Nevertheless, the proposed rear facing windows would be closer to No 82 than the existing windows. This would increase the scope for overlooking and significantly reduce the existing privacy enjoyed by the occupier of No 82. Moreover, the width of the proposed development would place these two windows across the length of the garden. This would increase the sense of observation and views into the neighbouring property. Furthermore, albeit lessened by amendment, the dormer window would further increase overlooking opportunity to the rear. For these reasons, the proposal would result in substantially greater overlooking than currently achievable. The proposal would therefore be demonstrably harmful to the living conditions of occupiers of No 82 with respect to privacy.
10. Accordingly, the proposal would fail to satisfy the requirements of the part of policy DM9 of the CS relating to living conditions. This seeks development to respect the amenities of occupiers of neighbouring properties. Furthermore, the proposal would fail to accord with the Surrey Heath Residential Design Guide (2017) which seeks new residential development to not undermine the residential amenities of occupiers of neighbouring properties.

Special Protection Area (SPA)

11. The site is within 5kms of the TBHSPA. Policy CP14B of the CS states that the Council will only permit development affecting the SPA where it is satisfied it will not give rise to likely significant adverse effect upon the integrity of the TBHSPA. The Council's Avoidance Strategy² requires small scale development, such as the proposed scheme, to provide mitigation to prevent an adverse impact on the integrity of the SPA. This is required in the form of a contribution towards both a Suitable Alternative Natural Greenspace (SANG) and Strategic Access and Monitoring Measures (SAMM). Criterion (iv) of policy CP14B requires a contribution to be made toward SANGs at a rate of 8ha per 1,000 population. The Council collects SANG contributions through its Community Infrastructure Levy and SAMM contributions through an appropriate Legal Agreement. However, no legal mechanism has been provided by the Appellant to secure any such required mitigation.
12. When considering the effect that a proposal may have on a SPA, a decision maker must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage. This responsibility now falls to me within this appeal.

² Thames Basin Heaths Special protection Area Avoidance Strategy Supplementary Planning Document 2012

13. 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 SPA. 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

14. The proposal followed a similar scheme recently dismissed at appeal³. The Inspector found that the proposal would be harmful to the living conditions of occupiers of No 82 but not to the character and appearance of the area. The main alterations appear to relate to the number of flats, the width of the side extension and proximity of the second-floor dormer on the rear boundary. The revision to the second floor has marginally lessened the extent of overlooking, but this improvement is limited. The changes made have not therefore addressed the overall impact on living conditions as identified above.
15. Although a rear dormer window could be constructed under permitted development rights, the appellant has not established the extent of such rights. The fall-back position advanced is therefore of limited weight in favour of the proposal.

Conclusion

16. Overall, although the proposal would not be harmful to the character and appearance of the area, this merit would nevertheless be outweighed by its demonstrably harmful effect on the living conditions of neighbouring occupiers.
17. For the above reasons, the appeal is dismissed.

Mr Ben Plenty

INSPECTOR

³ Planning Appeal Reference: APP/D3640/W/20/3248148