
Appeal Decision

Site visit made on 24 August 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Appeal Ref: APP/N1730/D/21/3272439

Halfacre, Fitzroy Road, Fleet GU51 4JH

- 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 Joanna Wilcock against the decision of Hart District Council.
 - The application Ref 20/02610/HOU, dated 25 October 2020, was refused by notice dated 21 January 2021.
 - The development proposed is to retain play equipment.
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Decision

1. The appeal is allowed and planning permission is granted to retain play equipment at Halfacre, Fitzroy Road, Fleet GU51 4JH in accordance with the terms of the application, Ref 20/02610/HOU, dated 25 October 2020, subject to the following condition:
 - 1) The planting scheme shown on the unnumbered drawing titled "Garden Climbing Frame. Retrospective Planning Application. Landscape Plan" shall be managed and/or maintained for the duration of the retention of the play equipment hereby approved, in accordance with a scheme to be submitted to, and approved in writing by, the Local Planning Authority.

Procedural Matters

2. The description of development in the heading above is a shortened form of the description on the application form and appeal form, which also includes details of the original planning permission for the existing play equipment, since the appeal does not relate to an application to vary or remove a planning condition.
3. The application has been submitted retrospectively, and I saw during my site inspection that the play equipment remains in situ, notwithstanding the expiry of temporary permission Ref 15/01510/HOU on 1 September 2020. I have dealt with the appeal accordingly.
4. Since the refusal of the planning application and the submission of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. The main parties were given the opportunity to address this matter, and I have taken the revised Framework into account where relevant to my decision.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of Nos 6 and 7 Belvedere Close, having regard to privacy impacts.

Reasons

6. The play equipment is sited near the rear of a long back garden to a two-storey house known as Halfacre. The property lies on the southwest side of Fitzroy Road within an established residential area within the urban settlement boundary and within the North Fleet Conservation Area (NFCA). The site is surrounded by residential properties to both sides and to the rear in Belvedere Close.
7. The play equipment comprises a substantial timber structure, which includes a climbing wall, steps and rope, swings and a slide arranged around 2 central raised platforms, which are accessed via steps, and contain a seating area underneath.
8. Nos 6 and 7 Belvedere Close are sited at a lower ground level than the appeal site, and comprise large detached, two-storey dwellings, which have a number of ground and first floor windows serving principal rooms along their rear elevations, together with private outdoor amenity space in their rear gardens. In the case of No.6, the rear garden directly backs onto the appeal site and the rear of the property has an outlook over the rear of the appeal site and No.4 Fitzroy Road. The northernmost corner of the rear garden of No.7 abuts the appeal site and the property is orientated so that it more directly backs onto the adjacent property at Park Hill.
9. Due to the height of the play equipment platforms in relation to the boundary fencing around the rear garden of the appeal site, together with the declining ground levels towards the rear of the appeal site, views towards the rear windows and gardens of Nos 6 and 7 are possible from both platforms. However, I observed during my site inspection that such views comprise intermittent glimpses above the fence line between existing tree and shrub planting adjacent to the appeal site boundary.
10. In particular, conifer planting that has been implemented along the rear site boundary since the granting of planning permission for the play equipment in 2015, together with some mature trees within the garden of the appeal site, provide a substantial amount of screening along the site boundary. The evidence before me, including photographs submitted by the occupier of No.6, indicates that such extensive landscape screening did not exist at the time of the original permission.
11. The platforms consist of small flat 'floors' appropriate for their use in association with access to and from the various elements of the play equipment. This, together with cross rail timber bars which hinder access for adults, means they are designed for use by younger children and are not conducive to adult access and use. Moreover, children accessing the play equipment platforms are likely to be pre-occupied with play activity, so that time spent at that higher level is likely to be brief and intermittent, and unlikely to be spent focussing on viewing the neighbouring properties.
12. Having regard to the above, I find that the combination of the design of the play equipment, the nature of its use, its distance from, and juxtaposition in relation to, neighbouring properties, and the presence of boundary fencing and landscaping, mean that any views from users of the structure would be brief, intermittent, and largely obscured, and would not materially harm the privacy of the occupiers of Nos. 6 and 7 Belvedere Close.

13. For the above reasons, I conclude that, subject to imposing a condition to ensure the retention of appropriate landscape screening in accordance with the previously approved landscape scheme under approval Ref 15/01510/HOU, the proposed retention of the play equipment would not result in demonstrable harm to the living conditions of the occupiers of Nos. 6 and 7 Belvedere Close, having regard to privacy impacts.
14. The development therefore accords with saved Policy GEN1 of the *Hart District Local Plan (Replacement) 1996 – 2006 (and First Alterations)* (2009), which amongst other things, seeks to ensure that development proposals cause no material loss of amenity to adjoining residential uses through loss of privacy or overlooking.
15. This is generally consistent with Paragraph 130 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.
16. The Council's reason for refusal also refers to Policy NBE9 of the *Hart Local Plan (Strategy and Sites) 2032* (2020). This policy relates to the requirements for high quality design, and I do not find it to be directly applicable to this main issue.

Other Matters

17. As the site lies within the NFCA, I therefore have a statutory duty, under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the effects of the appeal scheme on this designated heritage asset. The Council has not found any harm to the character and appearance of the NFCA as a result of the proposed development. Neither do I, on the basis of the evidence before me and my site inspection.
18. The play equipment is positioned in an unobtrusive position within the rear-most part of the back garden of the appeal site. Whilst large, it is not unduly so, having regard to the overall size of the garden. Its function reflects the residential nature of the site and the surrounding area. A combination of the siting and stained dark brown nature of the timber structure, together with the presence of surrounding trees, which provide an element of visual screening, means that the development would sit comfortably within the NFCA and would not appear unduly visually prominent or harmful to the prevailing character of the area.
19. I have noted the neighbour concerns about loss of trees and soft landscaping that took place when the play equipment was originally constructed. However, this occurred about 6 years ago in association with a previous planning permission, and the retention of the play equipment would not require any further tree works. Similarly, whilst third parties have raised concerns about the appropriateness of Leylandii Cypress boundary planting, this already exists, and was approved by the Council through permission Ref 15/01510/HOU.
20. I have had regard to neighbour concerns about noise disturbance arising from the appeal scheme. However, there is no cogent evidence before me to conclude that the retention of the play equipment would give rise to significantly greater levels of noise within the garden of the appeal property than that which could potentially arise from children playing in the garden without the play equipment.

21. I acknowledge third party concerns in respect of water drainage from the development. The Council has raised no objection in respect of this matter, and, in the absence of any compelling evidence to the contrary before me, and my site inspection, I have no reason to disagree.

Conditions

22. Whilst the Council has not suggested any conditions, having regard to my findings in respect of the main issue above, I consider a condition is necessary to ensure the continued management and/or maintenance of the existing landscaping scheme approved under the previous planning permission, to protect the living conditions of the neighbouring property occupiers in Belvedere Close.

Conclusion

23. For the above reasons, I conclude that the appeal should succeed, and planning permission be granted.

S Leonard

INSPECTOR