
Appeal Decision

Site visit made on 1st February 2022

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th February 2022

Appeal Ref: APP/N1730/W/21/3279881
36 Albany Road, Fleet, Hants, GU51 3PT.

- 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 and Mrs Ellis against the decision of Hart District Council.
 - The application Ref 21/00229/FUL, dated 25 January 2021, was refused by notice dated 25 March 2021.
 - The development proposed is erection of a 2 bedroom dwelling and creation of a new access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the dwelling proposed would be at risk from flooding or make flooding worse elsewhere; and
 - The effect on the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Background

3. The appeal site forms part of the rear garden of a detached house which fronts Albany Road but the appeal site itself fronts Oakley Drive which is a residential street characterised by mostly semi-detached chalet bungalows. The appeal site has a high beech hedge along the frontage at the moment and there is a electricity sub-station to the south of the plot with access to Oakley Drive.
4. I note that a previous application for a similar proposal 20/01973/FUL was refused by the Council in September 2020 and this did not include a reason for refusal in respect of flooding because of an error in the consultation with the Environment Agency (EA).

Effect on character and appearance

5. There is some variation in the design and format of mainly chalet bungalows in Oakley Drive and the properties are spacious with verdant front gardens. The proposal would result in the loss of part of the existing high beech hedge along

the frontage, which is a prominent local feature, but the element that would remain is consistent with the hedge on the southern side of the road, and the degree of hedge to be lost would not be significant.

6. The proposed dwelling would project in front of the general building line along the Oakley Drive frontage but taking account of the presence of No.36 in a prominent position on the corner and sited close to Oakley Drive, the siting of the proposed dwelling would not be unduly dominant in the street scene. The height of the structure would be consistent with the neighbouring properties and I am satisfied that there would be adequate visual gaps remaining between the host property at No.36 and No.1 Oakley Drive to ensure that the spaciousness of the area would remain intact.
7. I am concerned that the proposed dwelling would be sited about 5m back from the pavement leaving little room around the site frontage for landscaping of the pathway and parking spaces, but if the principle of the development is otherwise acceptable, it is likely that amended plans could be submitted to give better enclosure and landscaping to the street frontage. The revision could be conditional on an approval.
8. The new house is shown to be sited some 9.2m away from the eastern boundary of the site. This is slightly less than commonplace standards but as the rear facing window at first floor level is to a bathroom and will be obscure glazed this would not result in overlooking and a loss of privacy to the adjoining property to the east.
9. Overall on this issue, with some minor revisions to the layout to provide better provision for replacement landscaping along the frontage, I find the proposed dwelling would be compatible with the character and appearance of the area and would accord with the requirements of Local Plan Policy NBE9 and the general design principles of Policy 10 of the Fleet Neighbourhood Plan.

Whether affected by flooding

10. There are two aspects to this issue: the first effect is directly related to the culverted section of the Fleet Brook and secondly, whether the site is otherwise at risk of flooding, and if so, whether it has been demonstrated that the development proposed would be safe for its lifetime and not lead to greater flood risk elsewhere.
11. In terms of the culverted section of the brook the plan submitted by the appellant, WSD/467-005 related to 38 Albany Road, shows the location of the culvert in the north-eastern segment of the curtilage of that property and therefore it lies away from the appeal site. This alignment is consistent with the position of the end of the culvert in Oakley Park that I observed at the visit. As such the EA withdraw its objection on this aspect.
12. In terms of the wider issue of flooding the EA maintain its objection on other flooding issues as the appeal site is identified on the Floodmap for Planning as being within FloodZone 3 with a high probability of flooding. In accordance with guidance in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) in the absence of detailed modelling available to establish the extent of the functional floodplain (Zone 3) a site specific flood risk assessment should be carried out.

13. The EA advise that for the reasons given the FRA element of the appellant's Design and Access Statement (Jan 2021) does not comprise an adequate FRA and the EA dispute that the site is a 'dry island' as mentioned by the appellants' agent.
14. My own assessment of the Floodmap also suggests that the site is not a 'dry island'. Accordingly on the technical evidence put to me I conclude that the appeal site is at risk from flooding and it has not been demonstrated that the dwelling and its inhabitants would be safe or that it would not lead to greater flood risk elsewhere. As the proposal stands it conflicts with Local Plan Policy NBE5 and the relevant guidance contained in the NPPF and the PPS.

Effect on SPA

15. Local Plan Policy NBE3 refers to the effect of new residential development on the ecological integrity of the Thames Basins Heath Special Protection Area. The site lies within 5km 'zone of influence' of the SPA and the policy sets out the need for mitigation measures to manage the pressures arising from additional housing and provision of suitable alternate natural greenspace.
16. The appellant is aware of the mitigation measures put forward in the policy and has indicated that these would be contributed to if the principle of the development was acceptable. However, there is no formal legal mechanism put forward with the proposal to achieve this mitigation and the issue remains outstanding. As such I find that it has not been demonstrated that the proposal will not have a significant adverse effect on the ecological integrity of the SPA and the proposal conflicts with Policy NBE3 and NBE4.

Planning Balance

17. On the main issues I have found that the new dwelling proposed would, with some minor changes to the landscaped frontage, be compatible with the character and appearance of the area and would not harm them. However, there is clear evidence that the property would be at risk of flooding and it has not been demonstrated that the dwelling and its inhabitants can be made safe from the effects of flooding nor that the development will not make flooding worse elsewhere. There are also no mitigation measures put forward to ensure that the integrity of the SPA will not suffer significant adverse effects. For the reasons given above the proposal conflicts with the relevant aspects of the development plan and national guidance.
18. This policy conflict and the adverse effects have to be balanced with other considerations, but none put forward, including the references to other similar development that has taken place in the vicinity of the site, outweigh this. The appeal should therefore not be allowed.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR