



Appeal Decisions

Site visit made on 10 November 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal A Ref: APP/D3640/W/21/3289233

14 Pilgrims Way, Bisley, Woking GU24 9DQ

- 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 L Crocker, M Lakhani and M Littleboy (MML Bisley Ltd) against the decision of Surrey Heath Borough Council.
 - The application Ref 21/0547/FFU, dated 13 May 2021, was refused by notice dated 29 June 2021.
 - The development proposed is the erection of a new single storey dwelling following demolition of an existing garage.
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Appeal B Ref: APP/D3640/W/21/3289299

14 Pilgrims Way, Bisley, Woking GU24 9DQ

- 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 L Crocker, M Lakhani and M Littleboy (MML Bisley Ltd) against the decision of Surrey Heath Borough Council.
 - The application Ref 21/0906/FFU, dated 10 August 2021, was refused by notice dated 16 November 2021.
 - The development proposed is extensions and alterations to the existing dwelling to create a pair of semi-detached dwellings following the demolition of an existing garage.
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Decision

Appeal A

1. The appeal is allowed and planning permission is granted for the erection of a new single storey dwelling following demolition of an existing garage at 14 Pilgrims Way, Bisley, Woking GU24 9DQ in accordance with the terms of the application, Ref 21/0547/FFU, dated 13 May 2021 subject to the conditions in the attached schedule.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. Further plans were received on Appeal A which show an additional rooflight serving the side facing bedroom on the existing dwelling. I am satisfied that these plans show a relatively minor change to the development considered at planning application stage. Consequently, I shall accept the plans for the purposes of determining this appeal and do not consider that any interested party would be prejudiced from a public consultation point of view.

4. In relation to both Appeals A and B, the Council's decision notices cited the appellant's failure to make a payment or provide a completed legal agreement for Strategic Access Management and Monitoring (SAMM) mitigation in connection with the Thames Basin Heaths Special Protection Area (SPA). The Council has confirmed that the appellant has now made a payment on Appeal A for the SAMM to mitigate the effect of the development. No such mitigation is in place in respect of Appeal B. Therefore, I will consider this matter further in the main issue relating to the SPA, but in my role as the competent authority I will address the SAMM payment received by the Council for Appeal A as another matter.

Main Issues

5. I consider the main issues are the effect of the proposed development(s) on:
- (Appeals A and B) the character and appearance of the area,
 - (Appeal A) the living conditions of the occupiers of the existing dwelling at 14 Pilgrims Way with particular regard to outlook and sunlight, and;
 - (Appeal B) the Thames Basin Heaths SPA.

Reasons

6. Appeal A seeks planning permission for a detached dwelling on the appeal site following the demolition of the existing garage. The development subject of Appeal B also seeks to demolish the garage but seeks the creation of a new dwelling in a semi-detached arrangement with the existing dwelling. Given both appeals relate to the same site for similar developments, I have considered them together.

Character and Appearance

7. The appeal site is situated in a mixed residential area that contains both two storey dwellings and bungalows. A range of styles are also evident, with variations in the spacing between buildings. Despite this, most properties are set close together, and it is the setback of buildings behind front garden areas, many of which contain vegetation and low brick boundary walls, that contribute to the spacious and verdant character of the area.
8. The new dwellings, as proposed in both Appeals A and B would result in the current plot being split with the two resulting dwellings having narrower plots and greater plot coverage. Although the Council has stated that semi-detached dwellings tend to be on narrower plots, I was able to see detached bungalows in the area with plots of a comparable width to that proposed in both appeals. I do however recognise that there are common patterns amongst small groups of dwellings, but overall, the area is defined by plots of varying widths.
9. The proposed dwellings in both appeals would result in a reduction in spacing with the neighbouring property at No. 12 Pilgrims Way. In the case of Appeal A, the proposed dwelling would still ensure an appreciable gap of around 1.9m to the side boundary with the neighbour at No. 12, with Appeal B, which would be attached to the existing dwelling, providing a greater separation to the boundary with this same neighbour. There would be further spacing provided between this boundary and the dwelling at No. 12. In relation to Appeal A, a separation of around 1.4m would be provided between both the existing and

proposed detached buildings and the common boundary between them which would ensure adequate spacing that integrates with the surroundings.

10. I was able to see that the existing appeal dwelling and the neighbouring bungalows to either side have a greater plot width and spacing between the main buildings than other properties along Pilgrims Way. However, these are in the minority and in relation to properties on Elm Grove, these are not readily seen in the context of the appeal site. In relation to 16 Pilgrims Way, its side boundary is seen in the context of the appeal site, but this neighbouring dwelling is enclosed by a tall fence and there are two garages between the main building on this neighbouring property and the appeal site and the highway respectively, which provide enclosure of this space. In any event, the spacious character of the area is defined by buildings being set back from the highway rather than the space between them. As such, I do not consider that either of the proposed dwellings subject to Appeals A or B would have a cramped appearance and they would not detract from the spacious character of the area.
11. Reference is made to the constrained nature of the plot and the absence of garages in representations, but the proposed dwellings would be provided with parking, front and rear gardens, including areas for planting. In relation to the latter, landscaping details as well as the precise bin storage location are matters that can be addressed by condition, should the schemes be otherwise acceptable.
12. I therefore conclude that the proposals in both appeals would not give rise to unacceptable harm to the character and appearance of the area. They would not therefore conflict with Policies CP2 and DM9 of the Surrey Heath Core Strategy & Development Management Policies 2011-2018 (CS & DM Policies), which seek, amongst other matters, high quality development that respect and enhance the quality of the urban environment. They would also not be contrary to Principles 6.6 and 7.4 of the Residential Design Guide Supplementary Planning Document (RDG SPD) or the National Planning Policy Framework (Framework), which seek development that is sympathetic to local character and reflects the spacing, heights and building footprints of existing buildings.

Living Conditions

13. The existing dwelling has a side facing window which serves a bedroom that faces a tall fence at a distance of around 1.3m away. The proposed development in Appeal A would see a similar height fence at a distance of 1.5m from this window. Given the height and the proximity of the existing fence, it undoubtedly has an overbearing impact on the room served by this window. The proposed fence, however, would be slightly further away. Although the Council consider that the existing fence is not constrained to its existing position, it appeared as a long-standing feature and there is no indication that it is likely to be moved. Having regard to the existing position, and the agreement between the main parties that the proposed fence would improve the outlook from this bedroom window, I do not consider that this aspect of the proposal would be unduly overbearing relative to the existing position. This bedroom would also be served by a rooflight which would provide an additional aspect. Given the subject bedroom window is north-west facing, the fence would not diminish sunlight to any discernible degree.

14. The Council has indicated that the proposed bungalow behind the fence, as viewed from the existing dwelling's side facing bedroom window, would be harmful to outlook. The proposed bungalow would not appear as a visually stark feature as it would be further away from the fence which also forms part of the proposal in Appeal A, and its roof form, which would angle away from the existing dwelling.
15. I have not been provided with the loss of light assessment which the Council state has been undertaken. The appellant has provided an illustration, based on the guidance in section 8 of the RDG SPD, which demonstrates that from the subject bedroom window, it would only be obstructed by a small section of the proposed bungalow's roof, close to its ridge when a 25 degree vertical angle is applied from a point 2m above the floor. As such, given the separation between the existing and proposed dwellings, the single storey form of the proposed bungalow and its roof form that would be pitched away, I do not consider that the outlook from the existing dwelling would be unduly harmed. Likewise, and considering the position of the proposed bungalow to the north-west of the existing dwelling, beyond the proposed boundary fence, I do not consider that it would cause an unacceptable loss of sunlight.
16. I therefore conclude that the proposed development in Appeal A would not have an unacceptable adverse impact on the living conditions of the occupiers of 14 Pilgrims Way with particular regard to outlook and sunlight. As such, it would not be contrary to Policy DM9 of the CS & DM Policies, the Framework or the RDG SPD which seek to ensure that development respects the amenities of occupiers.

Thames Basin Heaths SPA

17. The appeal site is within 5km of the Thames Basin Heaths SPA. The SPA consists of a network of heathland sites that provide a habitat for internationally important bird species, namely, the nightjar, woodlark and dartford warbler. These species nest at low level and are easily disturbed by human activity such as recreational walking and predation by domestic cats. The SPA is likely to be adversely affected from additional recreational activities associated with a net increase in the population living within the zone of influence of the protected area. It is therefore likely that the proposal in Appeal B, taken both in isolation and cumulatively, would have a significant adverse effect on the integrity of the SPA and, as the competent authority, it is necessary for me to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SPA.
18. There is agreement between the main parties that the mitigation measures should include contributions towards Suitable Alternative Natural Green Spaces (SANGs) and SAMM, with the former being secured through the Council's Community Infrastructure Levy. Unlike Appeal A, the appellant has not made a payment towards SAMM, and has instead stated that they would be willing to enter a section 106 agreement that would secure this payment.
19. However, for development in Appeal B to be acceptable, the commitment to contribute to SAMM through a planning obligation must be in place prior to the granting of planning permission. As such, given there is no obligation before me providing the necessary legal commitment towards a SAMM contribution, the Appeal B scheme would have a likely significant effect, either alone or in

combination with other developments on the integrity of the SPA from recreational disturbance arising from additional activity.

20. The Habitats Regulations require me to consider whether there are any alternative solutions. There is no mechanism in place by which the required mitigation can be secured. No other solutions have been put to me and I have found none myself. The provision of a single dwelling is also not sufficient to amount to an overriding public interest. Consequently, having regard to the Habitat Regulations, permission must not be granted.
21. I therefore conclude that the proposed development in Appeal B would result in significant harm to the integrity of the SPA through additional activity associated with the proposed development. It would therefore be contrary to Policy CP14B of the CS & DM Policies, saved Policy NRM6 of the South East Plan – Regional Spatial Strategy for the South East and the SPA SPD which seek to permit development provided it would not give rise to likely significant adverse effect upon the integrity of the Thames Basin Heaths SPA.

Other Matters

22. The development subject of Appeal A would result in a net increase of one dwelling with a consequent increase in population within the zone of influence of the Thames Basin Heaths SPA. This would increase recreational pressures upon the SPA and cause a significant adverse effect on the integrity of the SPA. However, a payment has been made on Appeal A in accordance with the Council's mitigation strategy to avoid or mitigate significant effects on the SPA by securing a financial contribution towards SAMM with the SANGs being secured through CIL. The Council has confirmed payment of the SAMM contribution, so I am satisfied that the development would appropriately mitigate the significant adverse effect caused to the SPA and not affect its integrity.
23. Concerns have been raised that the development in Appeal A would have insufficient parking that would result in additional vehicles being parked on the road causing difficulties for other vehicles using their driveways. The Council has raised no concerns in this regard and given the scale of the development, with the additional dwelling in Appeal A having 2 bedrooms, I consider that two off road parking spaces apiece would be sufficient for the existing and proposed dwellings. Although the parking spaces are in a tandem arrangement, I do not consider this to be unusual where the spaces are serving a single dwelling. I appreciate that Pilgrims Way is a narrow road and may at times be congested. It is also used as a short-cut with a primary school nearby but given the development would provide adequate off-street parking provision and is located away from the bend in the road, I do not consider it would have any unacceptable effects on passing traffic even if there was some increase in visitor parking or deliveries to the additional dwelling. The development would generate construction related activity, but this would be for a limited period.
24. There would be some loss of on-street parking, but given the width of the additional access, the extent of such loss would be minimal given the extent of on-street parking availability in the area.
25. Concerns have been raised in relation to Appeal A that the additional dwelling, in terms of the position of the entrance door, bin and cycle storage as well as the parking spaces would create noise disturbance. Whilst the additional

dwelling would generate additional activity closer to the neighbouring property at No. 12, this would be at a similar level to other domestic activity from surrounding dwellings, and I do not find that this would have any unacceptable impacts.

26. I have considered representations made by interested parties including concerns around privacy. Although the proposed detached dwelling in Appeal A would have a number of side-facing windows, given they are at ground level and having regard to the intervening boundary treatment, they would not cause harmful overlooking to No. 12. The boundary hedging is said to be in No.12's ownership and although the proposed detached dwelling in Appeal A would be close to it, a grassed area would separate them. I have no reason to believe that the hedge would be harmed by the proposed development.
27. Matters relating to the scale and dominance of the property have been raised and an inconsistency in the height of the development. Although there may be small differences in the height of the proposed dwelling relative to the existing dwelling in Appeal A and in the distances to the rear boundary, the proposal is nevertheless for a single storey development. Having regard to the separation with the neighbouring property at No. 12, as well as the dwelling to the rear, 13 Elm Grove, I do not consider there would be any harmful effects on their living conditions in terms of visual intrusion or loss of light.
28. A general reference has been made to the appeal development setting a precedent for other developments. However, any such future applications would be dealt with on their own merits.
29. A number of other matters have been raised, including the availability of other two bedroom properties in the area and reference to property values. However, planning is concerned with land use in the public interest and these matters do not affect my findings on the main issues.

Conditions

30. In relation to Appeal A, I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the wording of some of the suggested conditions as appropriate.
31. The Council has suggested a condition that provides a 1 year time frame for commencement rather than 3 years. As there is limited capacity available for public SANGs in parts of the Borough, and this development would reduce SANG capacity, I consider it necessary and reasonable for the commencement of the development to be reduced to 1 year to prevent an accumulation of such permissions.
32. I have also attached material and landscaping conditions in the interests of ensuring the development's acceptable appearance in order to safeguard the area's character and appearance. I do not consider that a separate condition is required on surface hardstanding materials as this can be addressed by the landscaping condition.
33. In the interests of highway safety, I have imposed conditions to ensure the satisfactory provision of the new access, parking and for visibility splays to be provided. I note the Council's suggested condition refers to a road that is not near the site, but I do consider the proposed access requires adequate visibility

in the interests of pedestrian safety. I also consider conditions are necessary to secure bicycle parking and an electric vehicle charging point in the interests of promoting more sustainable modes of travel. Although some details on the former are provided, I consider it necessary for full details to be submitted and agreed with the Council.

Conclusions

Appeal A

34. I conclude, for the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is allowed.

Appeal B

35. The proposal would result in significant harm to the integrity of the SPA. This is a matter which attracts substantial weight.

36. The proposal would provide an additional dwelling within the settlement boundary, but given the scale of the development, I only attached limited weight in favour of the scheme. I have found no harm in relation to character and appearance, but this is a neutral matter that would not outweigh the harm identified.

37. The main parties dispute whether the Council are able to demonstrate a five-year supply of deliverable housing sites. However, even if there was not a five-year supply, the application of policies in the Framework that protect areas or assets of particular importance in footnote 7, which include habitat sites, provide a clear reason for refusing the development.

38. I conclude, for the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is dismissed.

F Rafiq

INSPECTOR

Schedule of Conditions – Appeal A

- 1) The development hereby permitted shall begin not later than 1 year from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1555/OS-01, 1555/S-01, 1555/S-02, 1555/S-03, 1555/P-01, 1555/P-02, 1555/P-03, 1555/P-04 and 1555/P-05.
- 3) No development above floor slab level shall take place until details and samples of all proposed external facing materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No soft or hard landscaping works shall take place until full details of both have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all hard surfaces, walls, fences, access features, bin storage, the existing trees and hedges to be retained, together with the new planting to be carried out and the details of the measures to be taken to protect existing features during the construction of the development. The approved hard landscaping details shall be carried out as approved and implemented prior to first occupation of the dwelling hereby approved and retained as such thereafter. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling hereby approved; and any landscaping which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) The dwelling hereby permitted shall not be first occupied until the proposed vehicular access which provides access to it shall have been constructed in accordance with drawing no: 1555/P-01. The access shall be retained thereafter.
- 6) The dwelling hereby permitted shall not be first occupied until a pedestrian visibility splay measuring 2m by 2m has been provided to each side of the proposed new access to Pilgrims Way, measured from the back of the footway and the widths outwards from the edge of the access. No structure or obstruction to the visibility splay between 0.6m and 2m in height above ground level shall be erected within these splay lines.
- 7) The dwelling hereby permitted shall not be first occupied unless the parking spaces have been laid out within the site in accordance with drawing no: 1555/P-01 for 2 vehicles to be parked. The spaces shall thereafter be kept available for this purpose.
- 8) Details of an electric vehicle charging point shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling hereby permitted and shall be retained thereafter.
- 9) Details of a cycle store for the proposed dwelling shall be submitted to and approved in writing by the Council. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling hereby permitted and shall be retained thereafter.

End of Conditions