



Appeal Decision

Site visit made on 20 March 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 MAY 2023

Appeal Ref: APP/A3655/W/22/3290773

Nutfield, Hollybank Road, West Byfleet KT14 6JD

- 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 A Taylor against the decision of Woking Borough Council.
 - The application Ref PLAN/2021/0592, dated 20 May 2021, was refused by notice dated 16 July 2021.
 - The development proposed is described as 'planning application for sub-division of existing rear garden and the erection of a new dwelling, associated landscaping and formation of new access'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of their appeal, the appellant has submitted additional and amended information in respect of highway, daylight and tree matters, as well as in connection with the Thames Basin Heath Special Protection Area (SPA).
3. In this case, my consideration of the additional and amended plans and details would not prejudice the interests of the Council or other interested parties, who have had the opportunity to make representations following both the lodging of the appeal and the submission of additional evidence. I have had regard to the Wheatcroft principles¹ and the degree of engagement for all parties in coming to this view.
4. The Council has indicated that in light of this additional information, it is satisfied that subject to planning conditions, the proposal would be acceptable in regard to trees and highway safety matters. As such they have not sought to defend their fourth or fifth reasons for refusal of the planning application. Notwithstanding this, based upon the content of representations made by interested parties, it is still necessary to consider the effects of the development on highway safety as a main issue.
5. The Council has confirmed that since the planning application was determined, the Surrey Transport Plan 2011-2026 has been superseded by Local Transport Plan 4 (LTP4), and that as such the reference to the earlier Transport Plan is no longer relevant. The appellant has had the opportunity to comment on the LTP4, and I proceed on that basis.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

6. The National Planning Policy Framework (the Framework) has been updated following the Council's determination of the planning application. Where specific references have been made to parts of the Framework within the Council's statement, these have been made in respect of the current version of the Framework. Also, since the determination of the application, the Council has adopted and referenced the Woking Borough Council Outlook, Amenity, Privacy and Daylight Supplementary Planning Document 2022 (the SPD) which supersedes the 2008 version cited within the decision notice. The appellant has had the opportunity to make final comments, and as such would not be prejudiced. I have therefore taken these into account.
7. A Unilateral Undertaking (UU) completed following the determination of the application has been provided as part of this appeal. It includes an obligation relating to the payment of a SAMM contribution. I will return to this matter later in this decision letter.

Main Issues

8. Given the above, the main issues are;
 - whether the proposal would provide adequate living conditions for future occupiers, with particular regard to daylight; and the effect of the development on;
 - highway safety; and
 - the character and appearance of the area.

Reasons

Living Conditions

9. The rooms that would be provided at the lower ground floor level include 4 bedrooms. Three of the bedrooms would have glazing onto lightwells and large roof lights.
10. The daylight factor calculation provided, concludes that all lower ground floor bedrooms would receive adequate natural light. However, it is not clear from the evidence how all of the figures forming part of the calculations were arrived at. Nor has it been confirmed that the calculations have been undertaken in accordance with any specified model approach or British Standard. Consequently, I afford little weight to the conclusions of the daylight factor calculation.
11. The proposed basement windows may be large; have a height exceeding 1 metre tall; and be positioned high relative to the ceiling. However, bedroom 4 would not have a roof light. Furthermore, the light well that would serve the single window within bedroom 4 room would be small and north facing. Consequently, I am unable to conclude that more than limited levels of daylight would be able to penetrate bedroom 4, resulting in the provision of a gloomy habitable room within the dwelling.
12. It is not disputed by the main parties that the bedrooms meet the minimum space standards set out in the Technical Housing Standards – Nationally Described Space Standard document 2015 (as amended). However, the limited level of daylight which would be available within bedroom 4, would make that habitable accommodation a much less attractive space within which to spend time.

13. For the reasons given above, in regard to daylight, the development would fail to provide adequate living conditions for future occupiers of the property. Consequently, and in this respect, it would conflict with Policy CS21 of the Woking Borough Council Woking Core Strategy 2012 (the Core Strategy), which seeks to ensure good design. Also, in respect of this main issue, it would conflict with paragraph 130 of the Framework, which requires new development to provide a high standard of amenity for future users.

Highway safety

14. Pyrford Road is subject to a 30mph speed limit. Adjacent and close to the appeal site it has a width capable of accommodating 2 passing vehicles. Although a snap-shot in time, during my mid-week late-morning site visit, the road was well trafficked. A car was also parked within the marked parking bay within the carriageway, located very close to the point where the proposed access would join the highway.
15. The vehicular driveway serving number 1 Old Sun Cottages (number 1) is currently obstructed by the siting of a timber shed-type structure. As such this area is not currently in use for car parking purposes. However, it is accepted by the main parties that the legal right of access onto Pyrford Road in this location remains, and I proceed on this basis.
16. The proposed vehicular access would be formed, in part, on land upon which the shed-type structure is located. Following their consideration of additional information after the determination of the application, the County Highway Authority has indicated that the proposals would lead to an improvement in visibility splays and that they no longer object to the proposals. However, it seems to me that these conclusions were reached on the understanding that there would not be an intensification of the use of a substandard access in this location.
17. It has been suggested by Vision Transport Planning that the occupiers of number 1 would not be afforded a right of access over the area shaded green within figure 3.1 of the document titled 'Appeal Statement (Highways)'. However, no mechanism has been put before me to ensure that this would be the case. As such, I am unable to conclude that the use of the proposed access would be prevented by existing and/or future occupiers of number 1, as well as by future occupiers of the proposed dwelling. Furthermore, I have been provided with no reason to doubt that the level of vehicle movements associated with the occupation of 2 dwellings would be significantly greater than for a single dwelling.
18. To secure the visibility splays indicated on the amended proposed access and associated visibility splays plan, sections of the roadside hedgerow on the boundary of number 1 would need to be reduced in height. Such proposals would undoubtedly improve visibility from that which currently exists. However, the splay indicated in the Dale Cottage direction is taken to the pavement on the opposite side of the carriageway from the appeal site, rather than to the near side edge of the carriageway. Even if the hedgerow reduction proposals were implemented, oncoming vehicles and cyclists from the Dale Cottage direction would not be visible until they are close to the proposed access.
19. In addition, the parking of a vehicle within the on-street car parking space adjacent to the proposed access would continue to obstruct visibility of the

highway when exiting the site. Drivers exiting the site would therefore need to pull out into the carriageway to secure visibility of oncoming vehicles from the Cornerways direction. Such a manoeuvre would create a road safety hazard which would cause significant harm to road safety.

20. Although still restricted, the improvement of the visibility splays from those which currently exist, as a result of the reduction and removal of parts of the roadside hedgerow would undoubtedly be beneficial to highway safety in the area. Whilst such a benefit is not necessarily dependent on the implementation of the development proposals, I nevertheless attribute moderate weight to this benefit. However, I attribute significant weight to the risk of harm to both cyclists and other road users which would result from any intensification of the use of an access onto Pyrford Road in this location where visibility is limited.
21. For the reasons provided, the proposed development would have an unacceptable adverse effect on highway safety. Consequently, it would conflict with Policy CS18 of the Core Strategy which requires development proposals to provide appropriate infrastructure measures to mitigate the adverse effects of development traffic and other environmental and safety impacts. It would also conflict with the provisions of the Framework which guide decision makers to refuse development which would result in an unacceptable impact on highway safety.

Character and appearance

22. The relatively level appeal site comprises part of the rear garden of Nutfield. It is largely surrounded by established hedgerows, shrubs and trees, which separate it from surrounding residential development and neighbouring gardens, and which also provide a high level of screening of the site from the surrounding public realm.
23. Along Hollybank Road, the prevailing form of development is of detached dwellings within relatively generous plots with long rear gardens. However, the character and appearance of the appeal site and its setting is also informed by the neighbouring and nearby developments within Pyrford Road and Pendennis Close. From the evidence and my own observations on site, the houses on the nearby plots within these streets are often smaller, attached and/or located within significantly smaller plots than within Hollybank Road. Although residential development within the area is predominantly 2-storey in height, there is some variety in the scale, height and appearance of buildings. This variety, both in the scale and form of housing, and the size of plots, contributes to the quality and distinctiveness of the area.
24. The proposed dwelling would be located to the rear of the established building lines within Pendennis Close, Hollybank Road and Pyrford Road. It would have a flat roof; a contemporary design and appearance; and internal accommodation at lower ground floor and ground floor levels only. Although in these respects it would differ from the nearby houses, it would add to the variety of built form within the area. Furthermore, the low height of the proposed building; the significant screening afforded by neighbouring buildings and plant growth; and, the narrow frontage onto Pyrford Road, would prevent all but glimpses of the proposed development from locations within the surrounding streets. The significant screening would also mean that the subdivision of the plot at Nutfield would be barely perceptible from the public realm.

25. Although the appeal site is smaller and of a different shape to that which prevails within Hollybank Road, its size is either comparable with or larger than the neighbouring and nearby residential plots on Pyrford Road and Pendennis Close. Also, whilst the layout of the proposed garden areas would not replicate nearby gardens, its total area would not be atypical of properties on Pendennis Close and Pyrford Road. For these reasons, the proposals would not result in a cramped form of development which would be out of character with prevailing patterns of development within the area.
26. Each proposal for development should be assessed on its own merits, having regard to the site context and surroundings, and any bespoke considerations. The specific circumstances that apply in this case are therefore unlikely to be repeated elsewhere. Therefore, even if this appeal were not being dismissed on other grounds, I see no reason why it would set a precedent for harmful developments on other sites.
27. For the reasons set out above, I conclude that the proposed development would not harm the character and appearance of the area. Consequently, and with respect of this main issue, it would comply with Policy CS21 of the Core Strategy and Policies DM10 and DM11 of the Woking Borough Council Development Management Policies Development Plan Document 2016. These policies support housing development on garden land where it would not harm the character and appearance of the area, or result in the subdivision of curtilages to sizes substantially below that prevailing in the area. They also seek to ensure that the frontage is in keeping with, and that buildings should respect and make a positive contribution to, the street scene and character of the area in which they are situated. In this respect, it would also comply with the SPD and the Woking Borough Council Woking Design SPD, as well as the Framework.

Other matters

28. The Council has indicated that the site is within the buffer zone of the Thames Basin Heaths Special Protection Area (SPA), which provides an internationally important habitat supporting breeding populations of Dartford Warbler, Woodlark and Nightjar birds. Following the refusal of the application, it is clear that the proposal would have a likely significant effect either alone or in combination with other plans or projects. However, notwithstanding the UU, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.
29. The trees that are proposed to be retained, as well as the trees on neighbouring land, contribute positively to the character and appearance of the area. Subject to the implementation of the measures identified within the method statement, (which could be secured via an appropriately worded condition), I have no reason to doubt that the development proposals could be undertaken without causing significant or long-term damage to the retained trees within the appeal site, or significant or long-term harm to those trees on adjoining land. I have had regard to the content of the submitted Arboricultural Implications report in coming to this view.
30. I accept that a building of a similar height and footprint to that which is proposed could be constructed within the residential curtilage of Nutfield utilising permitted development rights. However, given that this proposal would, if implemented, establish separate residential property, this

consideration does not lead me away from my previous findings in respect of highway safety and living conditions for future occupiers.

31. There would be a benefit from the creation of an energy-efficient new home in a sustainable and built-up location, which would help to meet the identified housing needs within the Borough. It could deliver benefits in terms of biodiversity, surface water run-off rates and air quality. However, the limited benefits resulting from one additional dwelling would not outweigh the harms I have identified.
32. I attribute great weight to the failure of the scheme to provide adequate living conditions for future occupiers and to the harm that would be caused to highway safety.
33. I have found that the development would not harm the character and appearance of the area. However, the absence of harm related to this matter does not justify a different conclusion being reached regarding the acceptability of the development.

Conclusion

34. Although I have found that the proposed development would not harm the character and appearance of the area, this particular proposal would cause material harm to highway safety and it would fail to provide adequate living conditions for future occupiers of the dwelling. In my view, these are the prevailing considerations, and the proposal should be regarded as being in conflict with the development plan, when read as a whole.
35. Material considerations, including the Framework do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the appeal should be dismissed.

V Simpson

INSPECTOR