



Appeal Decision

Site visit made on 18 April 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 June 2023

Appeal Ref: APP/R3650/W/22/3305207

Hillside, The Green, Farnham GU9 0HL

- 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 Trevor O'Brien of O and D Construction Ltd against the decision of Waverley Borough Council.
 - The application Ref WA/2021/0214, dated 22 December 2020, was refused by notice dated 24 February 2022.
 - The development proposed is erection of 3 dwellings including access, parking and amenity space following the demolition of the existing building and outbuildings (as amended by plans received 23/11/2021).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the surname of the appellant has been spelt differently on the application and appeal forms. I have used the spelling on the application form in the banner heading above.
3. During the application process, amended plans were submitted which reduced the number of dwellings proposed from four to three. It is the amended proposal that was determined by the Council. I have therefore used the description of the proposal from the Council's Decision Notice, which takes account of this amendment.
4. The Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies was adopted on 21 March 2023 (Local Plan Part 2). It replaces the saved policies of the Waverley Borough Council Local Plan (2002) referred to in the Council's reasons for refusal. It is mandatory for me to take account of the most relevant and up to date information in reaching a decision. I have therefore assessed the appeal proposal against the policies in the Local Plan Part 2. The main parties have been given an opportunity to comment on the relevant policies contained in the Local Plan Part 2 and have therefore not been prejudiced by me considering the appeal on this basis.

Main Issues

5. The main issues are the effect of the proposal on:
 - the living conditions of the occupants of the neighbouring property, known as Boundaries, with particular regard to privacy; and
 - the character and appearance of the area.

Reasons

Living conditions

6. There are two properties that share a boundary with the appeal site, including No.75 Upper Hale Road, known as Snaith Cottage, and a property known as Boundaries. Boundaries would be located to the rear of the proposed dwellings. It has a small rear garden that would abut their rear gardens.
7. The rear elevations of all three of the proposed dwellings, which include first-floor bedroom windows, would face in the direction of this garden and the distance between the rear garden of Boundaries and the proposed first-floor windows would be between 10-11 metres.
8. To ensure the privacy enjoyed by neighbouring properties is not significantly reduced, the Waverley Borough Council Residential Extensions Supplementary Planning Document (2010) (SPD) advises a distance of at least 18 metres between proposed windows and neighbouring private amenity space. I recognise the proposal would not comprise an extension and therefore, in this case, the SPD would not appear to apply. However, the guidance provides a useful benchmark as to what might be acceptable separation distances to protect the privacy of existing occupants, which could be applied to any type of new residential development. Moreover, the appellant has not ventured any alternative standards.
9. I saw on my site visit, that although the existing property on the appeal site does not overlook any of the adjacent gardens, there is already a degree of mutual overlooking between the neighbouring houses and their garden spaces, including some of the houses on the opposite side of Queens Road. Given this, lesser distances than those advised in the SPD may be appropriate. However, in this case, the distance between the proposed dwellings and the garden space of Boundaries at between 10-11 metres would be significantly less than the 18 metres advised. Given this proximity, the bedroom windows of all three of the proposed dwellings would afford views into the rear garden of Boundaries, with the bedroom window of Plot 2 directly facing it. The proposal would therefore result in a significant degree of additional overlooking to the rear garden of Boundaries, such that it would harm the living conditions of the occupants due to loss of privacy.
10. Boundaries benefits from another larger garden to the front of the property. However, this garden is not private and therefore would not provide a comparable space to the rear garden.
11. I note the appellant contends that neither the Council's reasons for refusal nor the Officer's Report refer to the impact of the proposal on the amenity space of Boundaries. However, the Officer's Report does mention the amenity space and, while it also refers to window arrangements, the overlooking and loss of privacy identified as arising from the first-floor windows of the proposed dwellings is not stated to relate specifically to the windows of Boundaries. Moreover, the Council in their appeal statement clarifies that its concern regarding the impact of the proposal on the neighbouring occupiers related to the private amenity space that serves Boundaries.
12. Accordingly, for the reasons above the proposal would harm the living conditions of the occupants of Boundaries by reason of overlooking and loss of

privacy. It would therefore conflict with Policy TD1 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites (Local Plan Part 1) and Policy DM5 of the Local Plan Part 2. These seeks to maximise opportunities to improve the quality of life and health and well-being of current residents by, among other things, the provision of private amenity space, and ensuring development avoids harm to the amenity of existing residents including by way of overlooking.

13. Notwithstanding this, the proposal would not conflict with Policy FNP1 of the Farnham Neighbourhood Plan (2020) (NP), which, although seeks to ensure high quality new development, does not refer to the living conditions of neighbouring occupants. Neither would it conflict with Policy FNP16 of the NP which permits building extensions and is therefore not applicable in this case.

Character and Appearance

14. The appeal site is located on the corner of Upper Hale Road and Queens Road. Upper Hale Road is one of the main roads running through Upper Hale. It comprises a variety of houses, ranging from rows of modest terrace properties set close to the road on small plots, to large, detached properties set back from the road on generous plots. This variety in scale, form and design is an important part of the surrounding character.
15. The part of Upper Hale Road where the appeal site is located has a less defined pattern of development, comprising some houses with more irregular plot sizes and shapes. There is a large recreation ground with perimeter trees nearby, as well as a smaller green space, known as The Green, adjacent to the appeal site. Overall, this creates a more spacious and verdant character than in other parts of the road.
16. The existing dwelling on the appeal site faces part of Queens Road and The Green. As a result, its elevation fronting Upper Hale Road appears slightly awkward. It has a single window and is relatively narrow, particularly in the context of its rear garden, which creates a relatively large gap between it and the neighbouring property, Snaith Cottage.
17. The proposed dwellings would have more conventionally defined plots than some of the houses in the immediate area and would fill much of the gap between the existing dwelling and Snaith Cottage, which would reduce the openness of the appeal site.
18. Nevertheless, while the existing gap would be filled, the proposed dwellings would not dominate the street scene. In comparison to other nearby houses, their scale would be modest. Their plot size and orientation to face Upper Hale Road, would reflect the neighbouring property, as well as other properties on Upper Hale Road, including rows of terrace houses nearby. The space surrounding the proposed dwellings including the remaining gap between Plot 1 and Snaith Cottage would be fairly generous and would include hedging. Accordingly, they would not appear cramped, contrived or out of keeping with the wider area, and the reduction in the openness of their immediate surroundings would not be to a degree that it would result in harm to the spacious and verdant character.
19. Moreover, while the location of the on-plot parking spaces towards the rear of the proposed dwellings would not be typical of the wider area, the spaces

would not be visually intrusive or clutter the street scene. I saw on site that vehicles currently park on the section of Queens Road on the edge of The Green, as well as Wings Road. Thus, although vehicles using the proposed parking spaces for plots 2 and 3 would be visible from the surrounding roads, including Upper Hale Road and The Green, in these views they would blend in with the existing parked vehicles. The proposed parking spaces for plot 1 would reflect the existing frontage parking of the houses opposite, therefore they would not look out of place. Furthermore, vehicles using the spaces would only be noticeable from the adjacent section of Queens Road.

20. Accordingly, for the reasons above, the proposal would not harm the spatial or visual character of the surrounding area. It would therefore accord with Policy TD1 of the Local Plan Part 1, Policy DM4 of the Local Plan Part 2 and Policy FNP1 of the NP. These seek to protect the character and amenity of the Borough by, among other things, requiring high quality and inclusive design that responds to the distinctive local character of the area in which it is located.

Other Matters

21. The appeal site is located within 5km of the Thames Basin Heaths Special Protection Area (TBHSPA). The Council advise that to avoid a likely significant effect upon the TBHSPA a Section 106 agreement is required to secure a financial contribution towards a Suitable Alternative Natural Green Space (SANG) and Strategic Access Management and Monitoring (SAMM) in line with the Waverley Borough Council TBHSPA Avoidance Strategy (2016).
22. As part of the appeal, the appellant has submitted a Unilateral Undertaking that the Council consider to be acceptable. Nevertheless, given I am dismissing the appeal due to its harmful effect on the living conditions of neighbouring occupants, no pathways to significant likely effects on the TBHSPA would arise from my decision. I therefore do not need to consider this issue further.

Conclusion

23. Overall, while I found the proposal would not harm the character and appearance of the area, this absence of harm neither outweighs nor addresses the harm to the living conditions of neighbouring occupants that I have identified with regards to overlooking and loss of privacy. The proposal would therefore conflict with the development plan read as a whole.
24. At the current time the Council is unable to demonstrate a five-year supply of deliverable housing sites. Its most recent five-year housing supply figures are between 4.15 and 4.56 years, which shows there to be a moderate shortfall. Given this, paragraph 11.d) ii) of the National Planning Policy Framework (the Framework) falls to be considered. Therefore, permission should be withheld only where the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits.
25. The proposal would provide an additional two dwellings in an accessible location and thus would achieve a more efficient use of land. However, while in view of the housing supply position the provision of any additional housing, particularly those in an accessible location, carries significant weight, the contribution of two dwellings would be modest and thus the benefit limited.
26. The proposal would have social and economic benefits resulting from its construction and subsequent occupation, as future occupants would likely

contribute to the viability of local services and facilities. It also includes energy reduction measures and there would be opportunity for biodiversity enhancements through a landscaping scheme. However, the modest scale of the proposal means these benefits would also be modest.

27. The proposal would conflict with Policy TD1 of the Local Plan Part 1 and Policy DM5 of the Local Plan Part 2. These are broadly consistent with the Framework's aims to create places with a high standard of amenity for existing and future users. Therefore, while the Framework seeks to significantly boost the supply of housing and recognises the important contribution that small sites can make to speeding up the delivery of homes, in this case, the harm I have identified to the living conditions of the neighbouring occupants with regards to overlooking and loss of privacy would outweigh the benefits to the borough housing supply. The proposal would therefore not benefit from the presumption in favour of sustainable development.
28. For the reasons above, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

Hannah Guest

INSPECTOR