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# Appeal Decision

Site visit made on 2 May 2023

**by A J Sutton BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 June 2023**

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**Appeal Ref: APP/N1730/W/22/3312247**

**128 and 130 Connaught Road, Fleet, GU51 3QX**

- 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 Donald and Robert Storey against the decision of Hart District Council.
  - The application Ref 22/0942/FUL, dated 21 June 2022, was refused by notice dated 10 August 2022.
  - The development proposed is described as 'Part demolition of the existing bungalows combined with a vertical and side extension to form two, two-storey dwellings. Five 2 bed, two storey dwellings to the rear comprising a terrace of three dwellings and a pair of semi-detached dwellings. Detached building comprising garage.'
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this case are:
  - The effect of the proposal on the character and appearance of the area, including trees;
  - Whether the proposal would provide satisfactory living conditions for the future occupants of Plots 3, 4 and 5, with regards private gardens; and
  - The effect of the proposal on the living conditions of the occupants of 126 and 136 Connaught Road, with regards outlook and light.

## Reasons

### *Character and Appearance*

3. The appeal property comprises semi-detached dormer bungalows fronting Connaught Road. This part of Connaught Road has a mixed architectural style of dwellings. However, these properties are unified by their linear plot form, with dwellings addressing the street and generally benefitting from reasonable size plots. This is also the case for dwellings to the rear of the appeal property on Clarence Road; and the back-to-back rear gardens in this part of the residential area creates a sense of spaciousness for occupants of these dwellings.
4. The exception to this development pattern, near to the appeal property, is Hartsleaf Close, where dwellings are relatively closeknit and have small gardens. While this somewhat interrupts the general grid pattern of

development in this area, the Close is a distinct cul-de-sac and similar to the surrounding layout of development, dwellings on Hartsleaf Close have significant street frontages. In this regard, the cul-de-sac is sensitive to this distinctive characteristic of the area.

5. The appeal property has some individual qualities; hosting bungalows, which is not a common style in the area, and having relatively broad rear gardens. However, despite these qualities, the appeal property is consistent with the prevailing linear pattern of development in the area, with Nos 128 and 130 addressing the road.
6. Spaciousness and green features in the road, in the vicinity of the appeal property, are mainly limited to small spaces to the front of the dwellings. As such rear gardens, and the few mature trees that are visible in these spaces from the road, are important verdant features that contribute positively to the appearance of the area.
7. The proposal would result in five new dwellings in the existing rear gardens of the appeal property. While there would be gaps retained at the side boundaries of Plots 3 and 7, the proposed dwellings would substantially fill the widest part of these gardens. Although permitted development rights allow structures in gardens, this is subject to limitations, and would not amount to the concentration of development proposed in this case. With small, proposed gardens to the rear, and a parking area to the front, the combined built mass of the closeknit, five dwellings, would considerably erode the existing sense of spaciousness that these gardens currently provide.
8. The five dwellings would be accessed by a driveway between Nos 128 and 130. While there would be some views of this development from Connaught Road, the five dwellings would be set back a significant distance from this road and would be significantly screened by Nos 128 and 130. As a result, the five dwellings would have extremely limited street frontage, and this would be at odds with the general pattern and layout of development in this area.
9. The density and front building line of the five dwellings would largely match the properties on Hartsleaf Close. The proposed dwellings would also be constructed in materials that match surrounding dwellings. However, while the five dwellings would be close to properties on Hartsleaf Close, they would be accessed via Connaught Road. In this respect there would be no direct connection to that existing Close, and the proposed dwellings would, as such, have a limited relationship with that neighbouring cul-de-sac. Consequently, not only would the proposal be at odds with the prevailing pattern of development on Connaught Road, it would also relate poorly to development on Hartsleaf Close.
10. The proposed new and extended dwellings would be of a traditional form. This would be reflective of surrounding, existing property types, as identified in the Hart Urban Characterisation and Density Study (2010) (HUCDS) for this area. Be this as it may, the proposed layout of the dwellings to the rear of Nos 128 and 130 would be out of keeping with the existing character of the area, and would, in this regard, fail to harmonise with existing development in this area.
11. The appellant's Arboriculture Report highlights that existing trees at the rear boundary of the appeal property may be affected by the development. These include a Category A Lime tree and a Category B Sycamore tree at the north

western corner of the appeal property. These mature trees are not only observable to occupants of surrounding dwellings, but due to their height, they are visible in the street scene. These attractive specimens provide a verdant contrast with the surrounding built form, and, in this regard, are a positive feature, that add value to the character of the area.

12. The plans supporting the Arboriculture Report show that despite the Lime tree being in the neighbouring property, its canopy would overhang almost all of the proposed small rear garden of Plot 3. The expansive canopy of the Lime tree along with the canopy of the Sycamore would also cover a substantial portion of the proposed rear garden at Plot 4.
13. The evidence presented indicates that these important trees would be retained and protected during the construction phase of the development. Be this as it may, given the likely extent of canopy encroachment over the limited private outdoor spaces of Plots 3 and 4, the mature trees would likely cause future occupants of these proposed dwellings concerns. These concerns may include the nuisance of leaf litter and overshadowing.
14. Even if future occupants did not consider these matters a nuisance, taking account of the size of the trees and the resulting level of encroachment, future occupants of Plots 3 and 4 would likely be fearful of branches falling into their outside spaces. This would create pressure to remove or substantially prune the trees and in turn this would have an adverse visual effect on the existing appearance of the area.
15. These trees are already located in a residential garden. However, these existing gardens, including the residential properties to the rear of the appeal property, are significantly larger than the gardens that would result through this development. Therefore, the occupants of these existing properties are unlikely to have the level of concern that future occupants of Plots 3 and 4 would have in a much smaller outside space.
16. I note the property on Clarence Road, directly to the rear, which bounds this northwest corner, also has a small rear outside space. However, this property does not appear to be a residential unit. Taking account of the above factors, the proposal would create significantly more pressure to prune or remove the trees than exists with the current configuration of development.
17. There is space in the appeal property for replacement trees and additional soft landscape features. However, additional planting in the site would unlikely compensate for the loss of mature trees, nor would these measures address the incongruous pattern of development that would result from the proposal.
18. The Council could place a tree preservation order on these trees, but this would not preclude applications to fell or prune the trees if the trees were considered hazardous in the future. Also, a planning condition would not address this matter for a similar reason. Moreover, despite the appellant's assertion on this matter, no substantive evidence has been presented that this development would likely improve the protection of these trees.
19. The appellant states that the extensions to Nos 128 and 130 would result in dwellings which are more in keeping with the appearance of dwellings on Connaught Road. However, although there are few bungalows in the area, this part of Connaught Road hosts a mix of styles such that the existing bungalows

do not appear discordant. In any event, alterations to these existing dwellings would not address the harm that the five dwellings would have on the appearance of the area. This matter does not weigh in favour of the proposal for this reason.

20. The appellant has drawn my attention to a development on Albert Street. This street falls within the same character area as Connaught Road, as identified in the HUCDS. However, Albert Street is a considerable distance from the appeal property such that uncharacteristic changes on that street would not influence the existing character surrounding the appeal property. Therefore, I attach very limited weight to this matter.
21. I have had regard to the proposal at No 84 which was dismissed on appeal. I note the differences in the area surrounding that property as well as the scale of development proposed in that case. However, I find that the proposal before me would be harmful at the appeal property for the reasons outlined, and this matter has not altered these findings.
22. In light of this, I find that the proposal would have a harmful effect on the character and appearance of the area, including trees. In this respect the proposal would conflict with Policies NBE2 and NBE9 of the Hart Local Plan (Strategy and Sites) 2032 (Local Plan), Policies GEN1 and CON8 of the Hart Local Plan (Replacement) 1996 – 2006 (Replacement Local Plan) and Policy 10 of the Fleet Neighbourhood Plan. These policies collectively require that developments should seek to achieve a high quality design and positively contribute to the overall appearance of the local area. They also state that proposals will be supported where there will be no adverse impact to important local, natural and historic features such as, amongst other features, trees.
23. The proposal would also be contrary to the National Planning Policy Framework (the Framework) which seeks well-designed places.

#### *Living Conditions – Future Occupants*

24. As already outlined, there are mature trees at the rear boundary of the appeal property. The submitted plans show that the proposed rear gardens of Plots 5, 6 and 7 would be largely unaffected by these trees. However, the proposed private gardens of Plot 3 and 4 would be substantially overhung by the canopies of two sizeable trees.
25. The size of the proposed private gardens for these plots may be acceptable. I also note that the Analysis for Daylight and Sunlight Report (Light Report) concludes that the proposed spaces would receive acceptable levels of sun and daylight in terms of the BRE guidance.
26. This may be so, but the Light Report shows that a considerable proportion of the rear gardens at Plots 3 and 4 would be in shade throughout the day. Consequently, these relatively small outdoor spaces would be gloomy for a significant part of the day, particularly when the trees are in full foliage. The rear boundary fence may well be a contributing factor to shadowing, but this only highlights that the private outdoor spaces for the future occupants of Plots 3 and 4 would be unpleasant places to sit and play in. In this respect the proposal would not provide satisfactory outdoor space for the future occupants of these properties to use and enjoy.

27. Even if I agreed that the level of sun and daylight reaching these spaces would be acceptable, the large trees would be dominating features in these private spaces such that these trees would cause nuisance and hazards in respect to falling debris and branches. This would make these private spaces unpleasant and potentially unsafe for future occupants of the dwellings to use.
28. The proposed dwellings at Plots 3 and 4 may well have adequate internal space with reasonable levels of sun and daylight. However, this would not compensate for the lack of pleasant and safe private outside space that the future occupants of these dwellings should reasonably expect with their homes.
29. I have concluded on this matter that the rear garden for Plot 5 would be acceptable. However, I find, for the reasons outlined above, that the proposal would not provide satisfactory living conditions for the future occupants of Plots 3 and 4, with regards private gardens. In this respect the proposal would conflict with Policy GEN1 of the Replacement Local Plan which, amongst other matters, seeks to avoid the material loss of amenity to existing and adjoining residential uses.
30. The proposal would also be contrary to the Framework, which requires a high standard of amenity for existing and future users.

*Living Conditions – Occupants of 126 and 136*

31. The semi-detached dormer bungalows, at the appeal property, roughly align with a detached bungalow at No 136 and a semi-detached two-storey dwelling at No 126. Although the dormer bungalows substantially fill the width of their plots there are driveways at their respective side boundaries. This provides relatively undeveloped space between the appeal dwellings and the shared boundary with their neighbours. Also, No 126 has a pathway at the side of their dwelling, which provides a further degree of separation between that dwelling and No 128. The bungalow at No 136 is stepped in an even greater extent from the side shared boundary with No 130.
32. The proposed extensions to Nos 128 and 130 would alter these dwellings to two-storeys. The footprint of the extended dwellings would also be closer to the shared side boundaries. However, this would only be by a small amount, and there would be space for a pathway at the side of Nos 128 and 130. Moreover, these retained gaps would not be dissimilar to gaps between other dwellings in this area.
33. No 126 has ground floor windows on the side elevation at the shared side boundary. The occupant of this dwelling has confirmed that one side window serves the kitchen, but that this room has another source of light, at the rear of the dwelling, through the glass paned door. The other window serves a dining room. The appellant questions whether this is a primary room. Regardless of this, the window serves a habitable room of the neighbouring dwelling, and this side window is the sole source of daylight for this habitable room.
34. The current outlook from these side windows, at No 126, is dominated by a high, solid boundary fence. Above this fence, the views from the dining room window are towards the side elevation and roof of No 128. The extended dwelling at No 128 would increase in height. However, the outlook from the dining room window of No 126 would continue to be of a fence and the side of

the neighbouring dwelling and would not be considerably different in this regard.

35. Also, the side elevation of No 128 would be closer to No 126. However, with the proposed gap at the side of No 128 and the existing side pathway at No 126 the proposed taller form would not appear an unacceptably overbearing feature when occupants of No 126 use their dining room.
36. The appellant's Light Report concludes that the proposal would result in an acceptable level of light reaching the side windows at No 126. However, this assessment is based on No 128 being significantly further from the shared boundary than is shown on the plans submitted with the original application.
37. This aside, Nos 126 and 128 would be closer together than currently. This is likely to restrict some sunlight reaching No 126's dining room window. However, this window is already overshadowed by the roof of the bungalow at No 128. As such, even with a taller structure at the appeal property, the resulting limited loss of sunlight likely to arise from this proposal would not appear harmful to the occupants of No 126. Moreover, the separation between these dwellings, as outlined above, would ensure that daylight reached No 126's side window and the habitable room it serves. For these reasons, I find that the proposal would not result in a harmful loss of daylight or sunlight such that it would have an unacceptable impact on the living conditions of the occupants of No 126.
38. No 136 is a single storey dwelling with windows, that serve habitable rooms, on the side elevation that faces No 130. Similar to No 126, the existing outlook from the windows of this property is towards the side elevation and roof of a dwelling.
39. The footprint of No 130 would protrude beyond the rear building line of No 136. However, this would be by a small amount. The proposal would also retain a generous degree of separation between the dwelling at No 136 and No 130. With this degree of separation, the proposed changes in height and footprint at No 130 would not appear overbearing to the occupants of No 136 when they are using rooms at the side elevation of their property. Also, with this degree of separation, No 130 would not harmfully overshadow the side elevation of No 136 such that it would result in an unacceptable loss of daylight reaching this side elevation.
40. I therefore find on this matter that the proposal would not have a harmful effect on the living conditions of the occupants of 126 and 136 Connaught Road, with regards outlook and light. The proposal would therefore not be contrary to Policy NBE9 of the Local Plan and Policy GEN1 of the Replacement Local Plan. These policies collectively require proposals cause no material loss of amenity to be adjoining residential uses. In this regard the proposal would also not conflict with the Framework.

### **Other Matters**

41. The appeal site is in the "Zone of Influence" (ZoI) for the Thames Basin Heaths Special Protection Area (SPA). This SPA affects the heathland areas that provide habitats for internationally important birds. These birds are sensitive to recreational activities and cat predation because they nest on or near the ground. Natural England states that new residential development within this

ZoI is likely to have significant adverse effects upon the qualifying features of the SAP, when considered either alone or in combination, due to the risk of increased recreational pressure.

42. The Conservation of Habitats and Species Regulations 2017, Policy NRM6 of the South East Plan, Policies NBE3 and NBE4 of the Local Plan, and Policy 17 of the Fleet Neighbourhood Plan seek to protect designated habitat sites. The appellant has submitted a S106 legal agreement in the form of a Unilateral Undertaking for mitigation in respect of the potential impacts on the SPA. However, as I am dismissing this appeal on other grounds there is no need to consider this matter further in this case.
43. The Environment Agency has provided comments about the area of the appeal property that is within Flood Zone 3, and has explained why these comments were not provided at the application stage. The appellant submitted a flood risk assessment with the proposal and is confident that the flood risk at the site access could be addressed by condition. Even if I agree that this was acceptable, this will not address the other harms identified in this case.
44. The appellant has requested I take account of the plan which shows an alternative position of No 128. In this plan No 128 appears to overlap the proposed access and in this regard is materially different to the plans considered during the application stage. Even if I found that it was acceptable to consider this material change, the plan would not address the harms I have identified in respect of future occupants' living conditions and on the character of the area.
45. The Council is able to demonstrate a 5 year Housing Land Supply. The provisions set out in Paragraph 11 of the Framework are therefore not triggered in this case. This aside, the proposal would make a contribution to the Government's objective to significantly boost the supply of homes. The proposal would provide additional family homes and the appellant is willing to accept a condition to ensure some of the housing is accessible for those with poor mobility. There would be economic benefits through the construction phase of the development and future occupants would also contribute to the local economy.
46. Also, the appeal property is in a built-up area, well related to a range of services. However, given the scale of the development, these social, economic and environmental benefits would be moderate. Even considered collectively these benefits would not outweigh the significant harm to the character of the area or the poor living conditions that would occur for future occupants of the dwellings.
47. The appellant asserts that the proposal would be an efficient use of land, for which there is support in the Framework. However, the Framework qualifies that this should be achieved while, amongst other matters, maintaining an area's prevailing character. This would not be the case with this proposal.
48. The Council has not raised issues about the internal space, parking, highways or ecology, subject to conditions. I have also found that harm to the living conditions of neighbouring residents would not result from the proposal. However, development should not result in these types of harms, and these are therefore neutral factors in this case.

49. The principle of the residential development at this location is not in dispute. The appellant has also drawn attention to other policies of the development plan that are not disputed. However, I have identified harm to the character of the area and the living conditions of future occupants of the proposed dwellings. In these regards the proposal conflicts with the development plan when read as a whole.

### **Conclusion**

50. Having regard to the development plan and material considerations, I find that the appeal should be dismissed.

*A J Sutton*

INSPECTOR