



Appeal Decision

Site visit made on 11 September 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2023

Appeal Ref: APP/Y3615/W/23/3318352

50 Fairlands Avenue, Fairlands, Surrey GU3 3NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Woodlands Country Homes Limited against Guildford Borough Council.
- The application Ref 22/P/01289, is dated 22 July 2022.
- The development proposed is described as a 'detached bungalow'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council describe the proposed dwelling as being located within the existing rear garden of No.50 Fairlands. This is based upon the approved plans for No 50A¹. The appellant does not dispute this. Therefore, whilst I observed on site that the rear gardens of both Nos 50a and 50 have been separated from the appeal site and the submitted site location plan shows the subdivision of the site, I shall consider this subdivision as part of the proposal in front of me.
3. The appellant states that the submitted plans were drawn prior to the erection of the fences on site, and they do not accurately reflect the garden space to No 50A. I have considered the submitted revised plan under the principles established by the Courts in Wheatcroft². Whilst a minor change, given the fundamental nature of a red line (outline of the site) alteration, to consider it would deprive those who would have been consulted on the change, the opportunity of such consultation. As such, I have therefore considered the appeal on the basis of the submitted plans considered by the Council.
4. The appeal is against a failure of the Council to give notice of its decision on the planning application Ref 22/P/01289 within the prescribed period. As such, there is no decision notice. However, the Council's appeal statement sets out its concerns with the proposed development and includes the refusal reasons it would have provided had it made a formal decision.
5. The first and second refusal reasons refer to Policy D9 of the Local Plan Development Management Plan 2022. However, the Council have confirmed that this is a typo and should refer to Policy D8, as is corrected in their statement of case. Given this correction, the appellant has had opportunity to

¹ Application reference 20/P/02167, and subsequent S73 application 21/P/01754.

² Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

comment on the matter, and the interests of natural justice are not prejudiced in my consideration of this policy.

6. The Guildford Borough Local Plan: Development Management Policies (22 March 2023) (DM) was formally adopted after the submission of the appeal, however the policies referenced by the Council were, due to the advanced stage, given full weight at the time of the Officer report. There is no alteration to the wording of these policies and the appellant has had opportunity to comment on this matter. Accordingly, I have given them full weight.

Main Issues

7. The main issues in this case are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the living conditions of the occupants of the host property, No 50A Fairlands Avenue, having particular regard to the provision of outdoor space, noise and disturbance; and
- the effect of the proposal on Thames Basin Heath Special Protection Area (SPA).

Reasons

Character and appearance

8. Surrounding the appeal site, Fairlands Avenue is characterised by pitched roofed two storey properties, mostly semi-detached but with some detached dwellings evident. The appeal site comprises land to the rear of a recently erected dwelling which extended a two storey semi-detached unit into a terrace of three. The dwellings are set back from the highway, with off street parking to the front. As such, there is a consistent, homogenous and spacious character to the surroundings.
9. However, the proposed dwelling would be located to the rear of No 50A, and whilst the proposed bungalow would not be particularly visible from Fairlands Avenue, it would be evident from the access running to the rear directly next to the side elevation of No 50A, in addition to being visible from the neighbouring properties and in glimpses through trees from the car park to the west. A new independent dwelling in this location would represent development at odds with the linear pattern of street facing dwellings in the surroundings. It would not reflect the form or grain of existing development and so would harm the established uniform character of the surroundings. Whilst I acknowledge the intention to create a structure that appears as a garden outbuilding, the single storey form would also incongruously contrast with the surrounding consistent two storey dwellings.
10. I conclude that the development would harm the character and appearance of the surrounding area. Accordingly, the proposal conflicts with the requirements of Policy D1 of the Guildford borough Local Plan: Strategy and Sites 2015 - 2034 (2019) (SS), DM Policies D4 and D8, and Policy G5 of the Guildford Borough Local Plan (2003) (LP), which collectively require development to respond to local character, contribute to local distinctiveness and respond positively to the surrounding context. These policies are consistent with the high-quality design requirements of the National Planning Policy Framework.

Living conditions

11. The subdivision of the site results in the reduction in the garden spaces of Nos 50A and 50. Both dwellings are left with garden spaces smaller than the immediate neighbours, however, they are comparable to nearby dwellings such as those directly opposite. The resultant gardens remain of a size that provide a patio area in addition to areas of grass and outbuildings. The proposed access results in an angled side boundary to the garden of No 50A, however it remains a usable space. Both gardens provide adequate outdoor amenity space to accommodate sitting out, hanging out washing, storage and general recreational space for its occupants.
12. Given the location of the proposed access, it would run next to the side and rear of the garden space of No 50A. Given the limited use associated with one property, this would not lead to an unacceptable level of noise or disturbance.
13. In light of the above, I conclude that acceptable living conditions to the occupiers of No 50A would be provided. There is therefore no conflict with the general protection of amenity requirements of DM Policies D5 and D8 and LP Policy G5.

Effect on Thames Basin Heaths SPA

14. The appeal site is within 400m – 5km of the Thames Basin Heaths SPA, which supports breeding populations of three rare species of bird: Nightjar, Woodlark and Dartford Warbler. The conservation objectives for the SPA are, in summary, to ensure that the integrity of the site is maintained or restored in order to protect the habitat and the birds that depend on it. The birds which are features of the SPA are vulnerable to disturbance from recreational activities, which would likely increase through new housing development.
15. In accordance with LP Policy NE4, SS Policy P5 and saved Policy NRM6 of the South East Plan (2009), appropriate mitigation would need to be secured for such development. The appellants have indicated willingness to provide a planning obligation to make a financial contribution toward what they consider to be appropriate mitigation, however, no such formal legal agreement or mechanism has been submitted.
16. However, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision.

Other Matters

17. The proposed scheme would contribute to the Borough's housing supply and more widely help address the Government's broader objective of significantly boosting the supply of homes, in a location which is located close to shops and services. However, the provision of 1 additional unit would be a minor social benefit attracting limited weight in favour of the scheme.
18. I note that the appellants comments on the Council's poor service, however this should be taken up with the Council, and is not a matter for consideration under this appeal.
19. I have taken full account of all the matters advanced in support of the proposal. The harm to character and appearance is a matter that attracts

significant weight against the scheme and outweighs the benefits of the development.

Conclusion

20. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

B Phillips

INSPECTOR