



Appeal Decision

Site visit made on 22 November 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2024

Appeal Ref: APP/R3650/W/23/3317223

29 Hurlands Close, Farnham, Surrey GU9 9JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Dorsett of Jactra Ltd against Waverley Borough Council.
 - The application Ref WA/2022/03194 dated 16 December 2022 was refused by notice dated 10 February 2023.
 - The application sought planning permission for the erection of 4 dwellings following demolition of existing dwelling and associated gardens and parking including vehicular access relocated without complying with a condition attached to planning permission Ref WA/2021/03195 dated 26 May 2022.
 - The condition in dispute is No 1 which states that: The plan numbers to which this permission relates are A-03-101 2, A-03-102 2, A-03-103 2, A-03-104 2, A-03-105 2, A-05-100, A-05-101 2, A-05-102 2, A-05-103 2, A-05-104 2, 100 1, 200. The development shall be carried out in accordance with the approved plans. No material variation from these plans shall take place unless otherwise first agreed in writing with the Local Planning Authority.
 - The reason given for the condition is: In order that the development hereby permitted shall be fully implemented in complete accordance with the approved plans and to accord with Policy TD1 of the Local Plan 2018 (Part 1) and retained Policies D1 and D4 of the Local Plan 2002.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the date of the decision on the planning application the Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies (2023)(LPP2) was adopted. It is incumbent upon me to base my decision upon the most up to date planning policy and this is what I have done. The policies in LPP2 supersede some of those referred to in the evidence.
3. The Council's decision notice refers to the 2021 publication of the National Planning Policy Framework. The National Planning Policy Framework (the Framework) was updated in December 2023, and accordingly for the purposes of this decision I have referred to the latest version of the Framework. The content of the Framework has not been materially altered in respect of the main issues which I have considered. Therefore, it has not been necessary to seek further views from the main parties in this instance.

Background and Main Issues

4. Planning permission was granted in 2022 for the erection of four dwellings within the appeal site. The appellant is seeking to vary a condition in order to substitute amended drawings, which include amendments to the external design and internal layout of Plot 4. Specifically, these involve relocating two bedrooms at first floor level, where previously two bathrooms were located. The external alterations involve amendments to the first floor rear windows to provide narrow angled, vertical, slit windows on the rear elevation to both bedrooms, where previously obscure glazed windows were approved.
5. The main issues are the effect that the variation of condition 1 would have on:
 - The character and appearance of the host property; and
 - The living conditions of neighbouring occupiers, with particular regard to the effects on privacy.

Reasons

Character and appearance

6. The appeal site is in an urban area. The area includes both modern and older more traditional properties. There is a mixed pattern of development including bungalows, detached houses and a small block of flats along Hurlands Close. The differing size and scale of properties create a varied street scene.
7. However, the houses approved by the 2022 planning permission all share very similar design characteristics in terms of their form, scale, use of materials and matching fenestration. As a result, the houses create a pleasant architectural unity which positively contributes to the character of the area. The approved houses are arranged with plots 1 and 2 towards the front of the site facing onto Hurlands Close, whilst plots 3 and 4 are located to the rear of the site.
8. The proposed windows would be positioned on Plot 4's less prominent rear elevation. However, due to their location at first floor level they would be visible in views from the rear gardens of Plot 3 and 31 Hurlands Close, and in public views from Towns End Gardens.
9. The floor to ceiling windows would have a markedly different size and proportions to the other windows on the rear elevation of the host property and those of the neighbouring houses within the development. Due to their height and projection from the rear elevation the windows would be large, prominent, boxy features. As a result, they would be visually discordant additions.
10. Furthermore, the bottom of the window would project through the decorative brick banding between the ground and first floor. The appellant indicates that this is influenced by building regulations requirements related to insulating the property. The banding is a design feature present within the 4 houses within the development, which are all of similar design. Whilst angled windows are sometimes found within urban areas, in this instance, the disruption of the banding would result in a clumsy addition which would further highlight the unbalanced appearance of the fenestration on the rear elevation. In addition, the interruption to the decorative banding would be a discordant alteration within the small group of houses which are similar in design. Overall, the

proposed windows would have a harmful impact on the character of the area and the host property.

11. Therefore, the variation of the condition would conflict with Policy TD1 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites (2018) (LPP1) and Policies FNP1 and FNP16 of the Farnham Neighbourhood Plan (2020) (FNP) which require new development to be of a high quality that responds to the local character of the area. Equally, the proposal would not comply with paragraphs 131 and 135 of the Framework which seek good design sympathetic to the local area.

Living conditions

12. The previously approved drawings indicated that the first floor windows would be obscure glazing. In contrast, the proposed amended drawings indicate transparent glazing. As the windows are at first floor level there is a potential for overlooking into the neighbouring properties' rear gardens, despite the fence which will be installed on the boundary with Plot 3 and the approximately 2.5m high brick wall on the boundary with 31 Hurlands Close (No 31).
13. Due to Plot 4's location to the rear of the appeal site there would be a limited separation distance from the windows to the shared boundary with No 31. The design of the angled windows is such that, from certain areas of Bedroom 2, there would be limited views possible towards the neighbouring properties. However, it would not prevent direct views towards No 31's garden for future occupiers who were standing in close proximity to the window.
14. No 31's garden features a 'dog-leg' which extends beyond the rear of the appeal site and contains an outbuilding and additional garden area. Despite this part of the garden being located some distance from the dwelling at No 31 it is well maintained and appears to be well used by the neighbouring occupiers. The area in question is currently relatively secluded and benefits from a good level of privacy. Consequently, it is equally sensitive to a loss of privacy as the parts of the garden which are closer to the main house.
15. The appellant indicates that planning law has established that the most sensitive part of a property's amenity area is the land closest to the house with the easiest access, as that tends to be the area that is most used by the occupiers. However, I have not been directed to any specific caselaw.
16. Due to its orientation and proximity to the shared boundary, views from Bedroom 2's window would enable a level of overlooking which would significantly diminish the privacy of No 31's rear garden area. This would be harmful to the neighbouring occupiers' living conditions.
17. Similarly, whilst the design of the angled window within Bedroom 3 would restrict the range of views available to future occupiers, it would allow direct views into the rear of Plot 3's garden for anyone standing in close proximity to the window. Again, given the proximity to the shared boundary, views from Bedroom 3's window would enable a level of overlooking which would significantly diminish the privacy of Plot 3's rear garden. This would be harmful to the neighbouring occupiers' living conditions.
18. The appellant has suggested that if this appeal is approved a condition could be imposed to prevent additional changes to the window design. However, as I have found that the proposed window design would harm the living conditions

of neighbouring occupiers, the imposition of such a condition would not make the proposal acceptable. Whilst prospective purchasers of Plot 3 would be aware of the layout between the properties, this does not negate the requirements within the development plan and national policy to require development to provide a high standard of amenity for future occupiers.

19. Therefore, the variation of the condition would conflict with Policy TD1 of the LPP1 and Policies FNP1 and FNP16 of the FNP. Collectively, the policies require new development to improve the quality of life and health and well-being of current and future residents, including safeguarding the privacy of adjoining residents.
20. Equally, the proposal would not comply with the paragraph 135 (f) of the Framework which requires development to promote health and well-being, with a high standard of amenity for existing and future occupiers.

Other Matters

21. I have not been provided with substantive evidence to demonstrate that the dwelling, as originally approved under Ref: WA/2021/03195, would be unsaleable or particularly unattractive to future prospective purchasers.
22. The concerns expressed regarding the Council's conduct during the processing of the planning application are outside the remit of this appeal.

Conclusion

23. I have considered all matters that have been raised, but none demonstrate that condition 1 is not reasonable and necessary. The proposed amended drawings would result in a development which would have an unacceptable effect on the character and appearance of the host dwelling and area and the living conditions of the neighbouring occupiers.
24. The proposal would conflict with the development plan and the Framework as a whole. There are no material considerations of such weight that indicate the decision should be made other than in accordance with the development plan. Condition 1 complies with the tests for planning conditions that are set out in paragraph 56 of the Framework. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR