



Appeal Decision

Site visit made on 9 January 2024

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2024

Appeal Ref: APP/N1730/W/23/3321660

Land to the rear of 21 Folly Close, Fleet GU52 7LN

- 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 P Sehmi of Oakridge Developments UK Limited against the decision of Hart District Council.
 - The application Ref 22/01297/FUL, dated 14 September 2022, was refused by notice dated 9 November 2022.
 - The development proposed is erection of 3 bedroom detached dwelling with attached side garage and associated parking and new access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The latest National Planning Policy Framework (Framework) was published during the appeal. There were no significant changes with regard to this appeal.
3. Although not submitted at the time of the application being decided, the Badger Walkover Survey and Drainage Calculations were part of the initial appeal submissions. Therefore, the Council and other parties had chance to comment on them and would not be prejudice by my taking them into account in my reasoning.
4. However, I have not considered the Plan Showing Location of Storage Area as it was not submitted until their final comments and other parties would not have had opportunity to comment on it.

Main Issues

5. The main issues of the appeal are:
 - the effect of the proposed development on the living conditions of the occupiers of neighbouring properties, with particular regard to privacy and outlook,
 - whether the proposed development would provide appropriate living conditions for future occupiers with regard to privacy, outlook and outdoor space,
 - the effect of the proposed development on biodiversity,
 - the effect of the proposed development on the character and appearance of the area, including the Basingstoke Canal Conservation Area (CA); and

- whether the proposed development would increase the risk of flooding with regard to surface water disposal.

Reasons

Living conditions – nearby properties

6. Some overlooking is inevitable in many residential areas and windows at neighbouring properties presently look into parts of the relatively large garden of 23 Folly Close (No 23). There is some separation between the upper floor windows of the proposed dwelling and the property at No 23 and no side elevation windows are proposed. However, unlike frontage areas that are open to the street, the rear rooms and the garden area nearest No 23 is currently largely private. In addition, while two of the rear windows would be fitted with obscure glazing, thus preventing overlooking, the nearest first floor window would be clear glazed, for a bedroom and located very close to the boundary with No 23.
7. These factors, along with the changes in land levels would result in close range direct views into the garden and rear rooms of No 23 above the existing and proposed boundary treatments and planting. The views from this window would cause increased overlooking and loss of privacy.
8. Views from the proposed rear bedroom window would be angled and therefore prevent direct overlooking towards the main living accommodation at 21 Folly Close (No 21). Nonetheless, there would be close range direct views into the garden of No 21, significantly reducing the current levels of privacy for occupiers.
9. Although the boundary treatments would be a comparable height to that already present at the nearby properties, this would not prevent overlooking. Any planting would take time to reach the height required to effectively screen the views.
10. The angled views, increased separation, and boundary treatments along the boundary with 19 Folly Close (No 19) would prevent any unacceptable effects on privacy for the occupiers of No 19.
11. The proposed property would be clearly visible from the adjacent ones and there are already tall trees a similar distance away from them. The lower land levels would also reduce the prominence of the proposed dwelling from within the existing ones on Folly Close.
12. Nevertheless, while this would also be the case from the raised areas of the garden of No 23, there would be very limited separation from the boundary with it. The full height of the proposed dwelling would be experienced and dominate the outlook from the lower garden area. This would result in the proposed dwelling being an overbearing feature causing an uninviting outlook from this part of the garden of No 23.
13. The change in land levels and separation from the boundaries with the gardens of No 19 and No 21 would ensure there would be a more open outlook away from the proposed dwelling.
14. Notwithstanding this, the proposed development would unacceptably harm the living conditions of the occupiers of No 23 and No 21 with regard to privacy as

well as outlook for those at No 23. It would be contrary to Saved Policy GEN1 of the Hart District Local Plan 1996-2006 (HLP2006), and Policy 10 of the Fleet Neighbourhood Plan (FNP). These, amongst other things, aim to avoid any material loss of amenity to existing and adjoining residential uses and prevent development that would be overbearing.

15. Policy NBE9 of the Hart Local Plan Strategy and Sites 2032 (HLP2032) does not directly relate to living conditions and is therefore not relevant to this main issue.

Living conditions – future occupiers

16. As above, there would be direct views between the proposed rear first floor bedroom window and the garden and property at No 23. While boundary treatments and landscape features would largely screen views into the proposed rear garden, the window-to-window views would not provide sufficient privacy for future occupiers.
17. Although existing properties and the retained trees would be prominent from the proposed property and its garden, there would be some more open areas and sufficient separation from several boundaries. This would ensure an appropriate outlook would be provided for future occupiers.
18. The dwelling itself, along with the retained and proposed landscaping would enclose much of the plot and as the Internal Daylight and External Sunlight Assessment for Planning shows, would shade parts of the garden. Nevertheless, the outdoor space would be largely private except views from the access and be reasonably flat. While falling leaves could be a nuisance, it would not be unexpected or untypical, or evidenced to be an issue at other properties nearby and at the site at present. Along with the size of the garden, this would ensure sufficient usable outdoor space would be provided for the property.
19. Notwithstanding this, the proposed development would fail to provide appropriate living conditions for future occupiers with regard to privacy. It would be contrary to Saved Policy GEN1 of the HLP2006, and Policy 10 of the FNP. These, amongst other things, aim to avoid any material loss of amenity to existing and adjoining residential uses and prevent development that would be overbearing.

Biodiversity

20. While Policy NBE4 of the HLP2032 does not require a certain level of net gain, it states that development proposals will be expected to avoid negative impacts on existing biodiversity and provide a net gain where possible.
21. The Preliminary Ecological Appraisal and Biodiversity Net Gain document (PEA) provided with the application and Badger Walkover Survey at appeal stage found no protected species or habitats at the site would be harmed. Given the lack of compelling evidence to the contrary I see no reason to reach a different finding.
22. Nonetheless, even though some of the species to be removed could be considered invasive and planting could be native species, the PEA confirms that there would be a significant net loss in habitat units at the site. It suggests exploring off-site provision. Notwithstanding this, from the evidence before me, I cannot be sure that conditions relating to a landscape scheme or seeking

offsetting elsewhere would address the harm from the loss, or be an appropriate mechanism to secure off site works. This would be the case even if net gain was not sought.

23. Therefore, the proposed development would unacceptably harm biodiversity. It would be contrary to Policy NBE4 of the HLP2032 where it states schemes are expected to avoid negative impacts on existing biodiversity.

Character and appearance

24. The appeal site is located adjacent to the CA. The significance of the CA is, in part, the connection of the canal to the development of the settlement and its tree lined path. The adjacent grassed area is identified as a Significant Open Space (SOS) in the Appraisal¹. From the SOS and other views in and out of the CA, the setting of the CA includes leafy urban areas of partly residential development often with mature landscaping around and within plots. The modern residential development that can already be seen at and near the appeal site does not contribute to the significance of the CA.

25. While I did not see any obvious examples of properties within the rear gardens of others, dwellings backing onto others are not uncommon in the surrounding streets. Moreover, many views from nearby streets are of properties in the foreground of others interspersed with mature landscaping. Properties along Folly Close are already visible in views from Durnsford Avenue and there is variation in plot sizes and shapes.

26. Some trees on site would be removed and pruning has already taken place. However, other than at the proposed access, a green vista backdrop to the CA near the boundary with Durnsford Avenue and the SOS would largely be retained. This would be supplemented by further landscaping in locations where the existing trees would not prevent success. In the absence of any compelling evidence that root protection areas shown in the AIA² are incorrect, a landscape scheme and a detailed method statement to ensure retained trees would be protected could be subject to conditions, were the appeal to be allowed.

27. For the reasons given above, as appropriate outdoor space would be provided, it is unlikely the scheme would lead to future pressure for the removal of further trees.

28. While the proposed property would not replicate the general consistency in scale and design of existing ones nearby, the proposed property would use similar features and materials to those found in the area. In addition, No 20A, which is closer to the road, within the CA and with less landscaping to screen at the other end of the SOS, shows that dwellings of a different appearance and of plots size can be assimilated into the streetscene.

29. As such, although the existing greenery and open space at the appeal site would be reduced, the presence of a dwelling and associated development would not be incongruous or harmful.

30. Therefore, the proposed development would not harm the character and appearance of the area and would preserve the significance of the CA. It would

¹ Basingstoke Canal Conservation Area: Appraisal And Management Proposals

² Arboricultural Impact Assessment and Method Statement

accord with Saved Policy GEN1 of the HLP2006, Policy NBE8 and NBE9 of the HLP2032 and Policies 10 and 15 of the FNP. These, in part, seek to ensure schemes are in keeping with, integrate with and respect the local character, as well as conserve or enhance heritage assets and their settings. It would also accord with the Heritage policies of the Framework.

Flooding

31. The size requirements of the flood storage capacity needed at the site to prevent surface water flooding elsewhere is not disputed by the main parties. There is no compelling evidence to the contrary. The presence of landscape features would restrict the areas that could be used for flood storage. However, from the details in the AIA, the size of the remaining areas and the size of the storage area required, there would be sufficient space within the site to accommodate this. Were the appeal to be allowed, conditions could be imposed requiring the final location to be agreed as well as the other surface water drainage details and flood prevention measures.
32. As such, the proposed development would not increase the risk of flooding with regard to surface water disposal. It would accord with Policy NBE5 of the HLP2032 where it states development will be permitted where it would not increase the risk of flooding elsewhere and will be safe from flooding.

Other Matters

33. The proposal would contribute to housing supply and a 5 year housing land supply is not a maximum. Moreover, the proposal would align with the Framework where it seeks to significantly boost the supply of housing and acknowledges that small schemes can make an important contribution to meeting the housing requirement of an area. Nonetheless, as with economic and social benefits associated with the build and occupation of the dwelling, given the scale of the scheme the benefits would be small.
34. The appeal site is within the 400m-5km zone of influence of the Thames Basin Heaths Special Protection Area (SPA). A planning obligation has been provided in relation to this. However, as I am dismissing the appeal for other reasons, the proposal would not take place and would not affect the SPA. Therefore, I do not need to consider this matter further and in any event, even if suitable mitigation were secured, a lack of harm would only be a neutral factor.
35. The property at No 20A is of a different scale and orientation and consequently would not have had the same effects on the living conditions of neighbouring occupiers or standards for its own occupiers. As such, it is not directly comparable to the appeal scheme.

Conclusion

36. The proposed development conflicts with the development plan when considered as a whole, and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict. Therefore, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR