



Appeal Decision

Site visit made on 16 February 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2024

Appeal Ref: APP/A3655/W/23/3321869

Little Oaks, Jackmans Lane, St Johns, Woking, Surrey GU21 7RL

- 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 Akhtar (Mustafa Homes Developments Ltd) against the decision of Woking Borough Council.
 - The application Ref PLAN/2023/0011, dated 4 January 2023, was refused by notice dated 2 March 2023.
 - The development proposed is the erection of 2 x semi-detached and 1 x detached dwelling and associated hard and soft landscaping following the demolition of the existing dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Government published a recently revised National Planning Policy Framework ("the Framework"). All references to the Framework in this decision relate to the revised document. I am satisfied that no one would be prejudiced by the changes to the national policy context as there are no material changes relevant to the substance of this appeal.
3. I am advised that the appeal development could affect the integrity of the Thames Basin Heaths Special Protection Area (SPA). The SPA is a designated European site of nature conservation importance and subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (as amended). I will return to this matter later in this decision.

Main Issues

4. The main issues in this appeal 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 occupiers of Heathside, with particular regard to outlook and access to sunlight.
 - Whether the proposal would comply with national and local planning policy, which seeks to steer new development away from areas at risk of flooding.

Reasons

Character and appearance

5. The prevailing pattern of development in the area is predominantly of dwellings fronting onto Jackmans Lane ("the Lane"), and to St John's Hill Road to the

north. The dwellings are separated by spacious and verdant rear gardens, largely devoid of buildings and often containing dense vegetation and groups of trees.

6. There are some occasional exceptions to this pattern of development, including the flat blocks at The Orchard and Hart Hill, the latter which fronts onto the Lane. However, these examples are relatively few in number, with limited intervisibility with the appeal property due to their separation distances and intervening dense planting within plots. As such, they do not markedly detract from the spaciousness of the garden environment or the pattern of development in the area.
7. In views from the Lane, the appeal property is seen within a row of buildings, comprising large buildings to its west that are set in a courtyard layout ("The Courtyard") at the rear of the Grade II listed St John's Lodge, and several modestly sized bungalows to its east. The Courtyard buildings are of a markedly different character and appearance to the other buildings on this part of the Lane, being large buildings, tightly grouped together with a significant combined mass. The evidence suggests they were designed to appear as the original stabling and utility buildings to the Grade II Listed St John's Lodge.
8. Set close to the edge of the Lane and extending some distance back from it and along the boundary with the appeal property, The Courtyard buildings contrast starkly with the modest scale and massing of the bungalows, which are set back from the Lane behind frontage planting and within deep plots. The bungalows have consistently low roof heights and are seen against a backdrop of trees and within a framework of planting, which includes the dense woodland opposite. The evidence suggests this woodland is in the Green Belt.
9. Together, these characteristics give the sense that the bungalows are secluded and embedded within mature verdant semi-rural surroundings on this part of the Lane. This contrasts with the denser rows of large houses fronting on to St John's Hill Road to the north and The Courtyard buildings. Consequently, the bungalows, including the appeal property, contribute positively to the distinctive character and appearance of this part of the area.
10. Although the proposed building on Plots 1 and 2 would be considerably smaller than those at The Courtyard, its overall scale and massing, with deep flank elevations and a steeply pitched roof with long rooflines, would be significantly greater than the existing bungalow and those nearby. The twin gables to its façade, with dormers either side, would emphasise the elevated bulk of its crown roof form and contrast markedly with the simpler and shallower pitched roofs of the nearby bungalows.
11. Despite the roofline of the proposed building on Plots 1 and 2 forming a stepped transition between The Courtyard buildings and the bungalow at Heathside, its bulk and massing would have a discordant visual relationship with the modestly sized bungalows to its east. It would also contribute to diluting the gradual transition of building heights and sizes from the woodland to the denser built-up area to the north.
12. For these reasons, the proposed building on Plots 1 and 2 would be inconsistent with the scale and form of the modest bungalows in the area, and it would harm the verdant semi-rural character and appearance of the area.

Whilst this impact would be localised given the secluded nature of the Lane in this location, it would nonetheless amount to harm.

13. The proposed building on Plot 3 would be clearly visible from nearby gardens, projecting above the garden fences and planting. Although it would reflect the scale and form of the bungalows in the area, its backland position would be at odds with the prevailing pattern of buildings in the area and incongruous. For these reasons, it would erode the generally spacious garden scene, resulting in harm to the character and appearance of the area. Although views of the proposed building on Plot 3 from the Lane would be limited, nothing I have read or seen in evidence limits the application of the relevant planning policies to developments only visible from the public domain. As such, this does not alter my conclusions on this matter.
14. The density of the proposed development would be relatively low, and the dwellings could be constructed from suitable materials. Their architectural styles are not, in isolation from the context of the appeal site, objectionable. However, these matters would be of limited weight in favour of the proposed development and insufficient to outweigh the harm I have identified above.
15. For these reasons I conclude on this issue that the appeal proposal would harm the character and appearance of the area. As such, it would be contrary to Policy CS21 of the Woking Core Strategy October 2012¹ ("the WCS"), and Policies DM10 and DM13 of the Woking Development Plan Document, October 2016 ("the WDPD"), insofar as they seek to ensure that development does not harm the character and appearance of an area, including through inappropriate subdivision of existing curtilages, and respects and positively contributes to the street scene and character of an area.
16. The Woking Borough Council Outlook, Amenity, Privacy and Daylight Supplementary Planning Document February 2022² ("the Woking Amenity SPD") and the Woking Design Supplementary Planning Document, February 2015, are cited in reasons for refusal 1 on the Council's decision notice. However, the main parties have not drawn my attention to any specific parts of either SPD in relation to this issue. Therefore, neither document is determinative to my assessment of this main issue.

Living conditions of the occupiers of Heathside

17. The side facing east elevation of the proposed building on Plot 2, would be considerably longer and taller than that of the existing low height bungalow to be demolished. It would be set close to the common boundary with the bungalow 'Heathside' and alongside part of its garden and a hardsurfaced patio close to the rear wall of this bungalow. Despite the spacious garden of Heathside, the close relationship between this patio and the bungalow, indicates that it is of high value to the living conditions of the occupiers.
18. Seen from the patio at Heathside and the area of garden close to it, the bulk and massing of the proposed building's tall and long side elevation would be clearly visible above the boundary fence and the planting within its garden. The planting would not be sufficiently tall or dense to screen the proposed building on Plot 2 in views from Heathside, and in any case there is no guarantee that it

¹ Woking 2027 Local Development Document, Woking Core Strategy, October 2012

² The Woking Borough Council Local Development Documents Outlook, Amenity, Privacy and Daylight Supplementary Planning Document February 2022

would be retained. For these reasons the appeal proposal would have a dominant and overbearing effect on the outlook of the occupiers of Heathside, when viewed from their garden patio.

19. Although the side elevation of proposed Plot 2 would be visible from the closest rear facing window in Heathside, which the evidence suggests serves a lounge, it would not be sited directly behind Heathside, and would be offset from this window by a sufficient distance to avoid a dominant or overbearing effect on the occupiers' outlook from this room.
20. Based on my assessment, overshadowing of the garden and patio area of Heathside by the proposed building on Plots 1 and 2, would be limited in duration and confined to the late afternoon and evening when the sun is lower in the sky. When the sun is highest in the sky as it moves from east to west, I am satisfied that sufficient sunlight would continue to reach the patio and garden area of Heathside, over the low height hipped roof and through the gap that would remain between it and the proposed building. However, an absence of harm in this respect does not weigh positively in favour of the appeal proposal or outweigh the harm to the outlook of the occupiers of Heathside.
21. For these reasons I conclude on this issue that the appeal proposal would have a dominant and overbearing effect on the outlook of the occupiers of Heathside, and thus would harm their living conditions. Therefore, it would be contrary to WCS Policy CS21, insofar as it seeks to ensure that development achieves a satisfactory relationship with adjoining properties and avoids significantly harmful overbearing effects on outlook.
22. For the same reasons the proposal would be contrary to Framework Paragraph 135.f), which states that planning decisions should ensure that developments create places with a high standard of amenity for existing occupiers, amongst other objectives. There would also be conflict with the Woking Amenity SPD, insofar as it seeks to ensure that development does not adversely affect the living conditions of nearby occupiers through diminishing the visual enjoyment of their dwelling's immediate setting.

Flood risk

23. The Woking Borough Council Strategic Flood Risk Assessment ("the SFRA") indicates that parts of the appeal site are at a medium risk of surface water flooding and parts of the Lane to its front are at a high risk of surface water flooding. WCS Policy CS9 states that the Council will determine planning applications in accordance with the Framework and that development within or adjacent to areas at risk of surface water flooding will require a Flood Risk Assessment (FRA) and be subject to the sequential approach. Framework Paragraphs 165 and 168, seek to steer development to the lowest risk of flooding from any source and only permit development in flood risk areas where there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
24. The Planning Practice Guidance³ ("the PPG") advises that the sequential approach means avoiding, so far as possible, development in medium and high flood risk areas considering all sources of flooding. This includes areas at risk of surface water flooding, even where a FRA shows the development can be made

³ Paragraph: 023 Reference ID: 7-023-20220825

safe throughout its lifetime. The objectives of a FRA, as set out in the PPG⁴, include establishing the evidence to apply the Sequential Test.

25. Although the Lead Local Flood Authority is satisfied that a surface water drainage scheme for the development can be secured by condition, the appeal proposal is not supported by either a site specific FRA or any substantive evidence of reasonably available sites in areas with a lower risk of flooding from all sources.
26. For these reasons the evidence before me has failed to demonstrate that sequentially preferable sites appropriate for the proposed development in areas with a lower risk of flooding are not reasonably available. Therefore, I conclude on this issue that the proposed development would not comply with WCS Policy CS9 and the Framework, insofar as they seek to steer new development away from areas at risk of flooding and require development to be supported by a FRA.

Other Matters

27. The appellant has submitted a signed and dated Unilateral Undertaking (UU) to obligate payment to the Council of a Strategic Access Management and Monitoring contribution to mitigate the potential negative in-combination effects of new housing development on the nature conservation interests of the SPA. However, it is not necessary for me to assess the effects of the proposal on the SPA in detail as it would not, given my findings on the main issues above, alter the outcome of this appeal. Even if I had found the appellant's UU to be effective in mitigating the proposal's effects on the SPA, mitigation would not amount to a benefit of positive weight in its favour.

Planning Balance

28. The appeal proposal would harm the character and appearance of the area, the living conditions of nearby occupiers, and would conflict with national and local planning policy on flood risk, contrary to WCS Policies CS9 and CS21, and WDPD Policies DM10 and DM13. These harms would bring the proposed development into conflict with the development plan as a whole and I give significant weight to this conflict.
29. There is no substantive evidence to contradict the Council's statement that it has allocated sufficient sites to meet its housing need in the plan period. Nonetheless, there is no upper ceiling on housing delivery and the appeal proposal would make a positive contribution to the supply and mix of housing in the Council's area in a location where housing is supported as a matter of principle by the development plan.
30. The proposal would use land more efficiently than the existing bungalow. It would be designed to maximise energy efficiency to reduce carbon emissions and minimise water usage, and could use locally sourced materials. Construction works and long-term occupation would deliver economic and social benefits, including through residents supporting facilities and services in the economy. However, given the scale of the proposed development, these benefits would be relatively small, and they attract modest weight in its favour. Collectively, they are insufficient to outweigh the conflict with the development plan when considered as a whole.

⁴ Paragraph: 020 Reference ID: 7-020-20220825

Conclusion

31. For the reasons given above, I conclude that the proposed development would conflict with the development plan as a whole. The material considerations, including the benefits of the proposal, do not carry sufficient weight to outweigh the conflict, nor do they indicate that the appeal should be determined other than in accordance with the development plan. The appeal should be dismissed.

G Sylvester

INSPECTOR