



Appeal Decision

Site visit made on 20 May 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 JULY 2024

Appeal Ref: APP/R3650/W/23/3330968

Land at Foxwood, Hookley Lane, Elstead, Surrey GU8 6JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs J Little against the decision of Waverley Borough Council.
 - The application Ref is WA/2023/01675.
 - The development proposed was described as 'retention of dwelling and associated works'.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr and Mrs J Little against Waverly Borough Council. It is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effect and consequences of the plot layout on the character or appearance of the immediate area; and
 - whether the plot layout results in satisfactory living conditions for occupants of the dwelling, with regard to pedestrian access.

Reasons

Character or appearance

4. The appeal site is about half of the plot of Foxwood, including most of the rear garden of this detached bungalow. The original plot has been sub-divided by a 1.8m or 2m high slatted timber fence. Irrespective of whether any, or all, of this fence remains in situ after the outcome of this appeal, in this appeal it defines a new plot. At the rear of Foxwood, off-set to one side, what was an ancillary outbuilding is fitted out, furnished and in use as an independent dwelling in the new plot, which establishes a separate garden from Foxwood.
5. This part of Elstead village, along this ribbon of Hookley Lane, is mostly detached houses and some bungalows in mature landscaped plots. These dwellings line each side of this road with a conspicuous facing elevation, usually the front elevation. The layout of these residential plots is, in essence, mainly

rectangular in shape, narrow end on to the road. This pattern and sequence of residential development is locally distinctive.

6. At the front of the site the new plot is a gravel parking area and consumes about half the width of the original plot, which is unusually wide on one side of Foxwood. Though squarer in shape, it gives the impression of parity with this part of the residual plot of Foxwood and the similar plot next to it at the similar bungalow Il Bosco, as well as at some other residential plots in this road. As such, this part of the new plot is not out of keeping in the streetscene.
7. However, the residual plot juts out a long way sideways from Foxwood and is abruptly closed off by the high fence across most of the rest of the original plot facing the road. As a result, apart from a distant glimpse of a narrow upper band of one side elevation and the flat roof profile, there is no real appreciation of most of the outbuilding as a dwelling from the road. This means the dwelling does not visually integrate with the streetscene in a positive way, as most other dwellings along this road do. The new plot narrows substantially at the side, to about 1m or 1.5m wide, and this sliver of land runs past Foxwood next to part of the residual plot. It then suddenly expands across the entire original plot at the rear, such that while this part of the new plot is broadly rectangular in shape, it is about twice as wide than at the front.
8. Consequently, although contiguous, none of these three individual parts of the new plot have any meaningful consistency or cohesiveness in dimensions or shape. Moreover, the resulting indented corner at the front gives Foxwood a mismatched L-shape, not rectangular, plot overall. Although the new plot extends in-depth, its irregular composite layout wraps around the residual plot on three sides in a way that is contrived to accommodate Foxwood, rather than reflect important features in the layout of plots at the most relevant established residential properties near it, including Foxwood. It is, therefore, at odds with the layout of most residential plots in Hookley Lane. The absence of greater public view (due to the position of the high fence) does not overcome innate incompatibility in plot layout or alleviate fundamentally discordant development in this respect to begin with.
9. In a previous appeal, for similar development at Foxwood, the Inspector found that the outbuilding, used as the (same) dwelling, did not look out of place in size, design and external materials or in siting towards the rear of the plot, despite a perpendicular (to the road) orientation¹. I have no reason to find otherwise in those respects.
10. However, the Inspector considered the dwelling in the context of a different appeal site and proposed plot layout. In that case the dwelling would have been in a uniform rectangular shaped plot by linear subdivision of the original plot of Foxwood, into roughly equal halves, to create three adjacent plots (with Il Bosco) of broadly similar width and shape parallel to each other, perpendicular to the road. That is not the same circumstances as in the current appeal, which in essence mainly subdivides the original plot at Foxwood front and back. Albeit recessive due to its siting, the previous plot layout would have better revealed the outbuilding as a dwelling as part of the streetscene in a more obvious, compatible way. While the dwelling remains the same as in the previous appeal, that appeal decision can therefore be clearly distinguished from the current proposal.

¹ WA/2022/01637 and APP/R3650/W/22/3308875

11. The intrinsic size, design, external materials and siting of the dwelling would not change if it reverted to use as an ancillary outbuilding. So, even if the existing outbuilding is not materially different to plans referred to in a lawful development certificate for a detached home office and garden room² (LDC), as has been suggested, an alleged fallback position in this regard is not material to my decision as nothing would change in these respects, whereas the use would. If it is materially different to those plans (as has also been suggested) then there is no objective evidence that its construction or use as an ancillary outbuilding is permitted development or did not require planning permission, including that there is no lawful development certificate to either effect so there is also no fallback position. In any event, ancillary use of the outbuilding would pertain to the layout of the original plot and residential curtilage of Foxwood, so not require the new plot layout in this appeal.
12. Some houses in this part of Hookley Lane are in backland positions, including those I have been referred to. However, these are significantly further back from the road, so do not have any meaningful visual presence in the street scene and are accessed by private cul-de-sac drives which leave rectangular shaped plot layouts intact. This residential development is therefore not comparable in these respects to the development in this appeal.
13. Elstead village is a modest built up area in the Surrey Hills National Landscape (SHNL)³ and in an Area of Great Landscape Value (AGLV). Even though the site is bordered behind by countryside, it is separated from it by some trees and hedgerow. There is no evidence of adverse effect on this planting or the wider landscape and scenic beauty of this part of the SHNL. Accordingly, the proposal would conserve these features of the SHNL and have a neutral effect on the AGLV.
14. Notwithstanding this, I find that the plot layout results in adverse impact on the character and appearance of the immediate area. The development does not therefore comply with Policy TD1 of the Waverly Borough Local Plan Part 1: Strategic Policies and Sites, February 2018 (WLP1) or Policy DM4 of the Waverly Borough Local Plan Part 2: Site Allocations and Development Management Policies, March 2023 (WLP2). These policies include that development should respond to, and reinforce, distinctive local character and be sympathetic to the prevailing pattern of development with regard to building plot sizes and widths and established street patterns.

Living conditions

15. Most other dwellings in this part of Hookley Lane address this road with a vehicular access and front garden including off-street parking area, usually close to each dwelling and main front facing windows. This functional relationship is convenient for occupants and conducive to normal domestic use and activity. It also gives an easily understood legibility for visitors, including unambiguous means of pedestrian access and approach to front doors. It also allows occupants surveillance across these private, defensible spaces and towards the road, which has limited street lighting.
16. The front gravel parking area is currently open to the road. However, the height and width of the fence to the side of Foxwood blocks any view towards it

² WA/2020/1444

³ Formerly known as the Surrey Hills Area of Outstanding Natural Beauty

or the road from the dwelling or garden next to it, so neither can be observed by its occupants, including their parked cars or visitor cars. Conversely, this fence conveys the impression of (and in fact) a continuation of the private side garden of Foxwood, set well back from the road, rather than a more typical lower front garden boundary fence in the foreground setting of a dwelling.

17. Albeit unusual, and with no meaningful direct visual association to the dwelling, a property number or name and a letterbox could be provided in the front gravel parking area. But because of the fence the outbuilding cannot be readily identified as a dwelling by anyone seeking it out. There is no evidence that any part of the fence is, or would be, owned or controlled by an occupant of the dwelling, rather than Foxwood, or that it would not therefore remain in situ if the appeal was allowed. A suitable fence would in any event be needed for satisfactory mutual living conditions given the apportionment of the original plot between Foxwood and the dwelling in this appeal.
18. The only access and means of approach to the dwelling is by a narrow, overly long pedestrian path. Even if provided with a suitable intensity and height of lighting activated by sensors, this route gives no meaningful forewarning to an occupant of the dwelling about visitors until the dwelling is reached. A locked gate at one or other end of the path would reinforce the impression of a side or back garden entrance to the dwelling, rather than towards a main elevation or front door. Even if it is possible to take wheelie bins along the path, the distance and restricted width likely does not as easily, or at all, facilitate some other normal domestic activity, such as passage of bicycles or some domestic appliances and furniture deliveries or removals.
19. Tightly enclosed by the tall fence on one side and tall, dense hedgerow on the other side, this secluded corridor is largely out of public or private sight. It would at least result in a tangible perception of opportunity for crime or anti-social behaviour so undermine usual expectations for safe, separate independent living conditions. While these arrangements may be endured by the current occupant of the dwelling or previous occupants, the planning system operates in the wider public interest.
20. There is no objective evidence that the dwelling, or at least the site, could not be accessed by operatives of service vehicles, delivery vehicles or emergency vehicles. These could either park in the road or in the front gravelled area, using the shared vehicular access to Foxwood or by an extended drop kerb and separate access.
21. Nevertheless, I find that the plot layout does not result in satisfactory living conditions for occupants of the dwelling, with regard to pedestrian access. As a result, the development does not comply with WLP1 Policy TD1 or with WLP2 Policies DM4 and DM7. These policies include that development should ensure access or entrance to development is obvious, permeable and safe, with adequate defensible space, maximises natural surveillance and improves the quality of life and well-being of residents.

Other Matters

22. The development does not adversely affect the living conditions of the occupiers of any other dwelling. It provides satisfactory car parking; sufficient internal and external living space and the dwelling is not at risk of flooding. The absence of harm in these respects is a neutral factor.

23. There is no objective evidence of an identified need for small two-bedroom dwellings. Nor that the dwelling met relevant requirements to be a self-build home, as opposed to that the outbuilding was built as an outbuilding by the appellants or on their behalf; they have not, anyway, lived in it nor is it currently occupied by a family member⁴. The development has been carried out, so in this appeal there is no unaccounted economic benefit due to construction work or employment and no energy or water efficiency environmental benefit from measures that already exist.
24. Despite what has been suggested to me, paragraph 2 of the previous appeal decision confirms that appeal was, amongst other things, determined against WLP2. While the Inspector found some aspects of that development acceptable, that does not alleviate or overcome the impacts identified in the main issues in this appeal. Nor does it set a precedent for this, or any other, outbuilding conversion to a dwelling because a site and a proposal would need to be considered on its individual planning merits, as I have in the current appeal.
25. The Council accepts that it cannot currently demonstrate a 5 year supply of deliverable housing sites, with a 3.89 year supply. This is not disputed by the appellant. By virtue of footnote 8, NPPF paragraph 11(d) is therefore engaged and the starting point is that planning permission should be granted.

Planning Balance

26. The dwelling is in a settlement where making effective use of small windfall sites for new housing is acceptable in principle under the development plan. Subject to a condition there would also be ecology enhancement at the site in accordance with the development plan. These outcomes would be aligned with objectives of the NPPF to significantly boost the supply of new homes to meet peoples living needs generally, in this case with a small dwelling, and to protect the natural environment through biodiversity net gain. Though important considerations, the (single) dwelling and limited site makes a small contribution in these regards, so these benefits have modest weight in favour of the appeal.
27. However, there is appreciable permanent harm to the character and appearance of the immediate area and to the living conditions of occupants of the dwelling, at odds with the development plan.
28. Given the housing land supply position, reduced weight applies to these policies most relevant to determining this appeal. They are, though, broadly consistent with other aims of the NPPF to achieve well-designed places sympathetic to local character and the surrounding built environment, including layout. Also, for safe, welcoming places to live and visit with a high standard of amenity for users that promotes well-being and where the fear of crime and disorder do not undermine quality of life. In my view, support in the NPPF to housing delivery and optimising site potential should not be at the expense of ensuring development is satisfactory for those who would experience it or live in it. Accordingly, these considerations have substantial weight against the appeal.
29. The adverse impacts of granting planning permission would, therefore, significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Consequently, by virtue of NPPF

⁴ Self-build and Custom Housebuilding Act 2015 (as amended) and NPPF Annex 2: Glossary

paragraph 11(d)(ii) the presumption in favour of sustainable development, the 'tilted balance', does not apply in this appeal.

Conclusion

30. The proposal conflicts with policies in the development plan. There are no other material considerations in this case, including relevant provisions of the NPPF, to indicate that the decision should be made other than in accordance with the development plan taken as a whole.
31. Consequently, for the reasons given above the proposal is unacceptable so the appeal does not succeed.

Robin Buchanan

INSPECTOR