
Appeal Decision

Site visit made on 30 October 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2024

Appeal Ref: APP/N1730/W/24/3343970

The Pump House, Mill Lane , Yateley, Hants, GU46 7AS

- 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 Mark Smallbone against the decision of Hart District Council.
 - The application Ref is 23/02488/FUL.
 - The development proposed is the demolition of existing detached 1 bedroomed bungalow and erection of a replacement detached 3 bedroomed dwelling with provision for parking and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing detached 1 bedroomed bungalow and erection of a replacement detached 3 bedroomed dwelling with provision for parking and amenity space, at The Pump House, Yateley, GU46 7AS in accordance with the terms of the application, Ref 23/02488/FUL, and the plans submitted with it, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs has been made by the appellant against the Council. This is the subject of a separate decision.

Main Issues

3. The main issues are:
 - The effect on the character and appearance of the area;
 - Whether the new development would lead to increased flood risk elsewhere and whether the occupants of the new dwelling would be vulnerable to flooding;
 - The effect on biodiversity and whether there would be a net gain.

Reasons

Background

4. The site lies to the east of Mill Lane on the edge of Yateley. Locally, Mill Lane forms the edge of the settlement boundary and therefore the appeal site lies in the countryside. Land to the east and north of the site is more open with fishing lakes within the Blackwater River valley which is a defined Landscape Character Area. The adjacent Yateley Lakes are also locally designated as a

Site of Importance for Nature Conservation (SINC) and the site also lies within a strategic gap between Yateley and the county boundary.

5. The appeal site contains a small single storey dwelling which was occupied residentially at the time of the visit. It is proposed to demolish this and erect a two-storey house.
6. I note that the proposal was recommended for approval by planning officers but the Planning Committee decided to refuse permission having considered representations from local people.

Policy context

7. The development plan includes the Council's Hart Local Plan 2032 adopted in 2020 (now referred to as the LP) and the Yateley, Darby Green and Frogmore Neighbourhood Plan (NP) made in July 2022.
8. Within the broad policy of restraint LP Policy NBE1(g) generally supports the principle of a replacement dwelling in the countryside. LP Policy NBE2 (e) indicates that development proposals will be supported where they have: (a) and (b) no adverse impact to the qualities and visual amenities of the local landscape; and (e) does not involve coalescence of settlements or loss of individual identity. NP Policy YDFNP1 has similar criteria to ensure sustainable development in an area of countryside outside a settlement boundary.

Effect on character of the area

9. In the vicinity of the appeal site Mill Lane forms the boundary between the developed residential area around the roads of West and North Fryerne and the verdant area to the east based around open land and lakes. The form of development around these two roads is wholly of two storey residential properties. In visual terms the scale of development here influences what would be appropriate on the appeal site.
10. The single storey building on the appeal site is set in an individual local character area with a swathe of grassed verge to the front of it and a backdrop of trees around the fishing lakes to the rear. While the site does not have the character of the suburban housing area opposite, it does have a different form to the wider expanse of lakes and recreational ground to the north. The replacement dwelling proposed would be materially larger and higher than the dwelling that exists, but this form would be well related to the buildings opposite and to the immediate enclave of the site without having a harmful effect on the general countryside landscape, especially that associated with the lakes. The siting and scale of the proposed replacement dwelling would be remote from any other development to the east and would not materially add to the coalescence of settlements or result in an incursion into the strategic gap.
11. Overall I am satisfied that the bulk, height and design of the replacement dwelling proposed would be visually appropriate for the site and would not harm the wider landscape setting. I find that the proposal accords with the principles set out in Policy NBE1 without conflicting with the requirements or objectives of NBE2.

Flood risk

12. The site lies mostly in Flood Zone 3 with a smaller element in Zone 2. Guidance in the Framework indicates that development proposals should not increase the risk of flooding elsewhere and a Flood Risk Assessment is required where necessary and appropriate. Similarly HLP32 sets out criteria for development including a requirement not to increase a risk of flooding elsewhere and a requirement to address flood risk through a flood risk assessment.
13. Representations on the appeal submitted by local people include many photographs showing the site and the local area being subject to flood water.
14. The application is supported with a Flood Risk Assessment (FRA) prepared by a chartered civil engineer. The FRA concludes that the flood risk to occupants is limited to the shallow flooding of the local road network which could complicate access but access would nevertheless remain safe. Further, the FRA asserts that there will be no change to third parties' flood risk as the increase in footprint area (between the existing and proposed dwellings) of about 6.5% would be negligible. The FRA indicates that the risk to the occupiers of a property on the site would be improved as the house would have flood resilient construction together with the creation of a first floor for a refuge.
15. Given the evidence in the FRA I note that the Environment Agency (EA) and the Council's Drainage Officer did not object to the application subject to the imposition of detailed conditions. I also note that the Council declared a Climate Emergency in 2021 and that influences the Council's decisions particularly regarding flooding issues.
16. Dealing with the risk of flooding first, the technical evidence before me suggests that the main cause of flooding in the area is from surface water rather than fluvial (river) flooding. Moreover the scale of residential building that already exists in the flood plain has to be recognised. The appellant says that the increase in footprint would be about 6.5% (although the Council now says that the roof area would be increased by 9.5%). Even adopting a precautionary approach, this is not a material increase that has been shown to have a measurable effect on any other property in the flood risk area. Conditions can be imposed to help deal with the disposal of surface water from the site. I empathise with the local people over the flood water problems that they experience from time to time, however, the technical evidence reasonably demonstrates that the proposal will not materially increase the risk of additional flooding.
17. In terms of the effect on the occupiers of the proposed dwelling, this has considerably greater internal floorspace and an increased number of people are likely to live there. To be balanced with this, the existing property is already subject to a flood escape plan and the new one would require similar provision. Moreover, the existing property is a conversion and I understand that its construction is not flood resilient for residential use whereas a new dwelling would be. Finally, I have given weight to the practical benefit of first floor accommodation in the new house which would give the occupants a refuge if a severe flood event occurred.

18. On balance, I find that with the conditions recommended by the EA and the Council's Drainage Officer, the proposed dwelling would not be likely to increase flood risk elsewhere. Neither would the potential increased number of occupiers be subject to an increased risk to life and property. Overall there is not a conflict with LP Policy NBE5 or NP Policy YDFFNP9.

Effect on biodiversity.

19. The Council refers to the siting of the appeal site in relation to the adjoining SINC and I noted this relationship at my site visit. While the Council accepts that short term impacts during the construction phase can be controlled by measures secured by condition, the objection is to the likely increase in activity and disturbance associated with a three bedroom dwelling and the lack of details about how a net gain in biodiversity can be established.
20. I acknowledge that there is likely to be an increase in people living on the site and general activity with the proposed house. However it is not clear how this would affect the habitat of the SINC. No details of the significance of the habitat are given or which flora or fauna would be harmed in the long term or how.
21. In terms of the site itself the appellant has now submitted a Biodiversity Net Gain Baseline Report which shows that the development can achieve a net gain of about 44% through having a vegetated garden and a new hedgerow. This reflects my own observations on site where it appeared to me that the existing residential site is stark with a hard surfaced 'garden' area and little natural vegetation. This results in a low baseline and I have no doubt that a condition can be reasonably imposed to secure appropriate biodiversity net gain as part of the development.
22. Overall on this issue I find that it has not been demonstrated that the proposal would have a clear adverse effect on the SINC and a net gain in biodiversity can be secured by condition. In this way the provisions of LP policy NBE4 and NP Policy YDFNP3 are met.

Other matters

23. Some people living in the housing on the opposite side of Mill Lane object to the two storey house proposed in that it would cause overlooking and a loss of privacy. However the distance apart exceeds normal standards and any views from the first floor bedroom window would be across a public space. This relationship would not result in material overlooking of any existing property or harm the living conditions of the occupiers.

Planning balance

24. On the main issues I have found that the replacement dwelling proposed is of a design, height and bulk which would not harm the character or appearance of the area nor harm the wider landscape setting or result in coalescence. Whilst I recognise the problems of surface water flooding in the area, the technical assessment before me reasonably demonstrates that the proposal will not make local flood risk materially greater. With appropriate conditions, neither would the likely greater number of people living in the new house be subject to a greater risk to life and property compared to the existing residential use. Finally it has not been demonstrated that the habitat of the SINC would be

harmed by any increased residential activity at the appeal site. A net gain in biodiversity can be secured by condition.

25. Overall I find that the proposal accords with the relevant provisions of the development plan as set out above.
26. This has to be balanced with other considerations but none put forward clearly outweigh the findings on the main issues or the accord with the development plan. On this basis planning permission should be granted.

Conditions

27. The Council recommends that 10 conditions be imposed (including in the subsequent addendum) which I will consider under the same numbering.
28. Conditions 1 and 2 are necessary to regulate the commencement of development and to define the plans that form part of it. Condition 3 is necessary in respect of minimising the impact of the development during the construction phase. Conditions 4 and 10 are necessary to ensure that the development does not add to flood risk in the area and also ensure that the occupiers of the new house are not subject to a risk to life. These conditions have been modified in the light of the Council's addendum and the representation from the Environment Agency.
29. Condition 5 is necessary to ensure that the development is appropriately landscaped and to make a positive gain in biodiversity. Further, to ensure that the development has proper off road parking provision in the interest of highway safety and to encourage the use of sustainable travel conditions 6 and 8 are reasonable and necessary. Condition 7 is necessary to ensure that the external appearance of the new dwelling fits in with the locality and I will impose it.
30. Finally, as an exception to the general PPG guidance, the removal of specified forms of 'permitted development' rights is justified in this case to ensure that the permitted dwelling is not further extended or outbuildings are erected which may increase the risk of flooding in the area. I will therefore impose condition 9.

Conclusion

31. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documentation: Location Plan, Site and Block Plan (2352/12 Rev A), Proposed Floor Plans and Elevations (2352/11 Rev A).
3. The development hereby approved, shall be carried out in accordance with the Construction Environmental Management Plan (CEMP) by Mayer Brown dated April 2024.
4. No works relating to the construction of the dwelling, driveway or parking areas shall begin until the following surface water drainage details have been submitted to and approved in writing by the local planning authority.

Infiltration tests in accordance with BRE 365 including groundwater strikes to be carried out and results provided;

If infiltration is viable at the site then the following details should be submitted:

Detailed drawings of the proposed drainage system; and
Calculations confirming that the proposed drainage system has been sized to contain the 1 in 30 storm event without flooding and any flooding in the 1 in 100 plus climate change storm event will be safely contained on site.

If infiltration is not viable at the site and the existing drainage will be utilised then the following details should be submitted:

A survey showing the location, detail and condition of the underground drainage system within the site existing prior to commencement of any demolition and development works on the site pursuant to this consent;
A drawing showing all modifications to that drainage system done to serve the approved dwelling, including the locations of a minimum of 400 litres of rainwater storage capacity in water butts suitably positioned to receive the majority of the rainwater run off from the roof of the permitted dwelling; and
evidence that the modifications will reduce surface water flow rates from the property.

5. Prior to any development above ground finish floor level of the building hereby approved as part of the detailed application full details of all hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. The details shall be based on the Biodiversity Net Gain Report submitted with the Appeal (LC Ecological Services, dated April 2024).

All soft landscaping works shall be carried out in accordance with the approved details in the first planting season, following completion of the development and retained thereafter in accordance with the approved details.

These details shall include; A) a detailed soft landscaping plan to a recognised scale clearly illustrating the location of all trees/shrubs/hedges/plants to be planted and areas of turf to be laid; B) a detailed written soft landscape specification detailing the quantity, density, size, species, position and the proposed time or programme of planting of all trees/shrubs/hedges/plants.

If within a period of 5 years from the date of planting of any tree/plant/shrub that tree/plant/shrub, or any tree/plant/shrub planted in replacement for it, is removed, uprooted, destroyed or dies, (or becomes in the opinion of the local planning authority seriously damaged or defective), another tree/plant/shrub of the same species and size originally planted shall be planted at the same place in the next planting season unless the local planning authority gives its written consent to any variations.

6. The dwelling hereby approved shall not be occupied until details of secure and covered parking for cycles has been provided and agreed in writing by the Council in accordance with the principles set out in the Car and Cycling Parking Supplementary Planning document. The cycle parking shall be carried out in accordance with the approved drawing(s)/details. The cycle parking/storage shall be permanently retained for the parking of bicycles and used for no other purpose.
7. No above-ground works or development shall commence until a detailed external materials schedule (including manufacturer's product links, brochures or samples as relevant) has been submitted to and approved in writing by the Council. Once approved, the development shall be carried out in accordance with the submitted details.
8. Prior to the occupation of the dwelling hereby permitted, the parking facilities shall be laid out as identified on the approved plans and shall thereafter be retained free of any obstruction to their intended use for the lifetime of the development.
9. Notwithstanding the provisions of Class AA, A, B or E of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any subsequent order revoking and re-enacting that Order with or without modifications), no enlargement, additional storeys, improvement, alterations or outbuildings to the dwellinghouse permitted under these classes shall be carried out without the prior permission of the Council, obtained through the submission of a planning application.
10. The development shall be carried out in accordance with the submitted flood risk assessment and the following mitigation measures it details: Finished floor levels shall be set no lower than 55.57 meters above Ordnance Datum (AOD). These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.