



Appeal Decision

Site visit made on 12 November 2024

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2024

Appeal Ref: APP/N1730/W/24/3348509

Woodside, Cove Road, Fleet, Hampshire GU51 2RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Sheridan Wingett against the decision of Hart District Council.
 - The application Ref 24/00550/FUL was approved on 6 June 2024 and planning permission was granted subject to conditions.
 - The development permitted is Construction of a detached three bedroom dwelling with associated parking, access and garden.
 - The condition in dispute is No 11 which states that: Notwithstanding the provisions of Schedule 2, Part 1, Classes A, AA, B, D, E and F of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent order revoking and re-enacting that Order with or without modifications) no enlargement, improvement or other alteration to the dwellinghouses permitted and the existing dwelling on the site under these classes shall be carried out without the prior permission of the Local Planning Authority, obtained through the submission of a planning application made for that purpose.
 - The reason given for the condition is: To ensure that the Planning Authority can properly consider the effect of any future proposals on the character of the locality and amenity of neighbouring properties in accordance with policy NBE9 of the Hart Local Plan (Strategy and Sites) 2032, saved local policy GEN1 of the Hart District Local Plan 1996-2006 and the aims of the Fleet Neighbourhood Plan 2019-2032 and the NPPF 2023
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Decision

1. The appeal is allowed and the planning permission Ref 24/00550/FUL for construction of a detached three bedroom dwelling with associated parking, access and garden, granted on 6 June 2024 by Hart District Council, is varied by deleting condition No 11 and substituting it for the following condition:
 - 1) Notwithstanding the provisions of Schedule 2, Part 1, Classes A, AA, B, D and F of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent order revoking and re-enacting that Order with or without modifications) no enlargement, improvement or other alteration to the dwellinghouses permitted and the existing dwelling on the site under these classes shall be carried out without the prior permission of the local planning authority, obtained through the submission of a planning application made for that purpose.

Application for costs

2. An application for costs was made by Sheridan Wingett against Hart District Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Planning permission has been granted for the construction of a detached three bedroom dwelling with associated parking, access and garden at the property known as Woodside, Cove Road in Fleet. The appeal seeks permission to carry out the development without complying with condition 11 which removed permitted development rights set out in Schedule 2, Part 1, Classes A, AA, B, D, E and F of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) from both the dwelling permitted and the existing dwelling on the site. The appellant has not challenged the removal of Permitted Development Rights for Classes A, AA, B, D, and F of Part 1, Schedule 2 of the GPDO.
4. However, the appellant wishes to vary condition 11 to remove Class E from the list of Classes, which relates to the erection of buildings and other structures incidental to the enjoyment of a dwellinghouse. The appellant submits to me that the removal of the provisions of Class E would require the appellant to apply for planning permission for a range of minor outbuildings in the garden, such as sheds, greenhouses, garages, garden offices, garden store or summer house etc. that are ancillary to the enjoyment of the approved dwellinghouse.
5. The main issue therefore is whether the condition, specifically the removal of the provisions of Class E, is reasonable or necessary in the interests of the character and appearance of the area and the living conditions of neighbouring occupants.

Reasons

6. Woodside consists of a detached dwelling, situated in a relatively long rear garden, which extends northwards from Cove Road. At present, it forms part of a small group of residential buildings of a similar scale and plot size. The neighbouring residential property to the west, the property known as 'Demara' also benefits from a long rear garden and existing outbuildings, including a shed and a garage. Established trees enclose the appeal site which creates a 'wooded' character to the edge of settlement location. The trees, alongside the spaces between buildings, help to break up the built form in the area and contribute to the character of the locality. The appeal site, where the new dwelling would be sited, is a parcel of land to the rear of Woodside, which would have previously been part of its private garden but is now fenced off.
7. However, despite its edge of settlement location, the site is in a predominantly residential area. As the Council itself acknowledges, 'the introduction of the approved development will inevitably result in a tighter grain of development with more constrained curtilages when compared to the current conditions'. Furthermore, I note that there is an extant permission for a new care home building to be built to the east of the appeal site¹. Therefore, the character and appearance of the area is changing. I also observed that in the immediate surrounds of the appeal site, to the north and west, is a more built up residential estate, which consists of much smaller plots, at a higher density.
8. Whilst I appreciate that the resulting smaller curtilages of both the new and existing dwellings 'warrant a careful management', I am satisfied that the number of limitations and conditions that are contained within Class E,

¹ Planning Application Ref 22/02520/FUL, allowed under appeal ref APP/N1730/W/23/33119799.

including the scale, height, siting and relationship with the boundary of the curtilage of the dwelling and the total area covered by buildings would be sufficient 'management' in these circumstances. When these are applied, it is considered that this would ensure that any outbuildings would not result in a significantly higher density of built form than the locality nor would the resultant development fail to integrate satisfactorily to the evolving character of the edge of settlement location.

9. One of the limitations of Class E is that any development should not be situated on land forward of the principal elevation. Therefore, by virtue of the siting and orientation of neighbouring buildings and the established vegetation enclosing the site, public views of the rear of both the existing and new dwellings would be limited. Furthermore, criteria 'b' of Class E does not allow buildings that exceed 50% of the total area of the curtilage of the dwellings. Consequently, this would ensure that sufficient green spaces between the properties would be retained, allowing any positive contribution the 'green spaces' make towards the character of the locality to remain. Accordingly, the prevailing character and appearance of the area would not be materially harmed.
10. Whilst Class E does not restrict the size of the footprint of an outbuilding, the other limitations of Class E would ensure that the scale and form of any outbuildings would be kept to a size which would ensure any impact on the living conditions of neighbouring properties would be kept to a minimum. For example, criterion D of Class E does not allow for the erection of an outbuilding which is more than one storey in height, and criterion E of Class E places further restrictions on the height of any outbuildings, requiring the height of the building, enclosure or container to not exceed 4 metres with a dual-pitched roof, 2.5 metres if it is located within 2 metres of the boundary of the curtilage and 3 metres in any other case. Consequently, I am satisfied that the limitations contained within Class E in regard to the size and location of outbuildings would be sufficient to ensure that the living conditions of the occupants of neighbouring properties would be safeguarded.
11. Furthermore, the Council has not provided me with any evidence in regard to which 'neighbouring properties' they are particularly concerned about the impact on, which would provide particular justification for the removal of Class E. This is especially in view of the extant permission for the care home next door. Consequently, I consider that the exercise of permitted development rights permissible under Class E under the appeal proposal would not affect the living conditions of local residents due to the existing and proposed relationship and separation distances from neighbouring properties.
12. In its Statement of Case, the Council has calculated what 50% of the land around the approved new dwelling would result in, arguing that it would still result in a substantial amount of development permissible under Class E. The Council continue and state that it could be 'an outbuilding or series of outbuildings with a similar footprint (on a single or cumulative basis) to that occupied by the original house or even a larger site coverage and still be within permitted development allowances'.
13. I acknowledge that there would be no assessment of either living conditions or character and appearance under permitted development, as the Council submits to me. However, the existing house of Woodside would have originally benefited from permitted development rights under Class E, allowing them to

build similar scale and type of outbuildings. Whilst there would be an additional dwelling on the appeal site, the amount of development that would be permissible under Class E by the existing and proposed dwellings would not exacerbate any impact on the living conditions of neighbouring occupants or on the character and appearance of the area.

14. Accordingly, I find that the disputed condition, specifically the removal of the provisions of Class E, is not reasonable or necessary in the interests of the character and appearance of the area nor in the interests of the living conditions of neighbouring occupants. In arriving at this conclusion, I have had regard to the advice within the National Planning Policy Framework (the Framework) which states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance (PPG) also advises that conditions restricting permitted development rights should only be imposed in exceptional circumstances. It is not considered that the Council has demonstrated why the circumstances of the appeal proposal would be 'exceptional'. Accordingly, for the reasons given, I find that the relevant tests in the Framework and the PPG have not been met in this case.
15. Therefore, for the reasons given above, I conclude that condition 11 should be varied as set out in the formal decision. The development with the varied condition would comply with Policy NBE9 of the Hart Local Plan (Strategy and Sites) 2032 (adopted 2020), Saved Policy GEN1 of the Hart District Local Plan 1996-2006, the aims of the Fleet Neighbourhood Plan 2019-2032, notably Policy 10, and paragraph 135 of the Framework. In combination, these policies seek to ensure all development achieve a high quality design and positively contribute to the overall appearance of the area, complimenting the immediate locality, and ensure a high standard of amenity for existing and future users, causing no material loss of amenity to adjoining residential uses.

Laura Cuthbert

INSPECTOR