



Appeal Decision

Site visit made on 20 February 2025

by R Lawrence BSc (Hons), PGDip (TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2025

Appeal Ref: APP/A3655/W/24/3349308

44 Oriental Road, Woking, Surrey GU22 7AR

- 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 Kevin Manners against the decision of Woking Borough Council.
 - The application Ref is PLAN/2023/0946.
 - The development proposed is the erection of a pair of semi-detached dwellings with access drive, amenity space, parking and landscaping on land r/o No.44.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the submitted planning application form. However, it is clear from the submitted plans and accompanying details that the development also includes the demolition of the existing two storey side extension. I note that the Council considered the proposal on this basis, and I have done the same.
3. Subsequent to the decision made by the Council on the planning application to which this appeal relates, the National Planning Policy Framework (the Framework) was revised. I have therefore made my decision with regard to the updated Framework (December 2024).

Main Issues

4. The main issues are:
 - the effect of the development on the character and appearance of the area,
 - whether or not the site would be a suitable location for the proposed development, having regard to the risk of flooding, and
 - the effect of the development on the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Character and appearance

5. The proposal is for the subdivision of the existing plot, such to provide two additional dwellings within the existing rear garden. Policy DM10 of the Woking Development Management Policies DPD 2016 (DMP) allows for development on

garden land which does not result in harm to the character and appearance of the area, subject to a number of criteria.

6. Through demolition of the side extension, the space between buildings would increase. However, any benefit in this regard would be outweighed by the effect of the new access and boundary treatments associated with the subdivision of the plot. These works would erode the sense of spaciousness between buildings and would result in the loss of the existing soft landscaping between the dwelling and its side boundary, and in turn the next-door property. The width of the new plot at the front of the site, just wide enough to accommodate the access and some limited landscaping, would appear substantially smaller than that prevailing in the area.
7. The prevailing pattern of development is of dwellings with lengthy rear gardens. These gardens together with their undeveloped and verdant form, make a positive contribution to the character of the area, and while they may have limited direct visibility from the road, they are perceived through the spaces between buildings and by residents in the surrounding properties. Both the proposed dwellings, and the existing, would have much more modest rear gardens in comparison with the prevailing character of the area. Although there are some examples where properties have shorter rear gardens, such as around the road junctions, and at numbers 44a and 44b, these are not reflective of the prevailing pattern of development and, in any event, the proposed plots would still fall short of these. In comparison with the spacious, verdant character of the area, the proposal would appear cramped and incongruous within the street scene.
8. I have had regard to the proposed areas of new planting. This soft landscaping would be focused along the new site boundaries, with the majority of planting proposed within the new gardens to the rear. As such, this planting would have limited effect on the appearance of the site from public vantage points. The extent of planting within the site frontage would be limited in scale, such that it would not be sufficient to counter balance the urbanising effects from the subdivision of the plot.
9. There are no other comparable examples of back-land housing along Oriental Road. There are a couple of cases within the wider area, including development on Tudor Close and Park Road, however, the appeal site is a reasonable distance from these and would not be seen in the same context. It is also notable that the pattern of development along those roads is closer knit and appears to be of a higher density. As such, I find their setting is not comparable to that of the appeal site. Consequently, these examples do not alter my finding that the proposal would appear out of keeping with the surrounding pattern of development.
10. In light of the above, the proposal would have a harmful effect on the character and appearance of the area, and in particular, would be detrimental to the existing verdant, spacious character. The proposal would therefore conflict with Policies DM10 of the DMP and Policies CS21 and CS24 of the Woking Core Strategy (CS) 2012. These policies, taken together and insofar as relevant, require that development avoids harm to the character and appearance of the area, respects and make a positive contribution to the street scene within which it is located and that appropriate boundary treatments and planting would be provided.

Flood risk

11. The appeal site is located in an area at high risk from surface water flooding¹. The highway, Oriental Road, is also identified as being at risk from surface water flooding. I note from the appellants' Flood Risk Assessment (FRA) that the curtilage of the appeal site was subject of surface water flooding in 2016, during a heavy rainfall event.
12. In light of the risk from surface water flooding, a sequential test is required in accordance with paragraphs 173-175 of the Framework. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Caselaw has emphasised the need for realism and flexibility when considering reasonably available sites².
13. The appellant has submitted a sequential test, dated November 2023. The search area is limited to sites within a 1000m radius of Woking Railway Station and the Town Centre. Planning Practice Guidance (PPG)³ advises that the area to apply the test will be defined by local circumstances. In this case, the search area omits a large proportion of the designated Urban Areas within the Borough, wherein Policy CS1 sets out that "...infill development and/or redevelopment of previously developed land in the built-up area of the Borough will be acceptable in principle". Consequently, whilst Built Up Areas outside of a 1000m radius may be less preferable in terms of access to sustainable travel options, this approach is not reflective of the Council's spatial strategy for the location of development similar to the appeal proposal. Consequently, the approach in the sequential test is unnecessarily restrictive.
14. The search methodology does not include allocated sites within its Site Allocations Development Plan Document (DPD) (2021) which primarily relates to larger developments. Nonetheless, the PPG is clear that reasonably available sites could include part of a larger site⁴ if capable of accommodating a development for two dwellings. As such, excluding this document, and discounting larger sites, potentially omits reasonably available sites which could be suitable for the proposed development. Therefore, the sequential test is not fit for purpose and does not adequately demonstrate that there are not any reasonably available alternative sites, at lower risk of flooding than the appeal site.
15. In addition, as both the appeal site and Oriental Road are at high risk from surface water flooding, safe access and egress is required in order to avoid a potential risk of future occupants being stranded within their homes during flood events. The garden and driveway, which provides the sole access to the site, are at medium/high risk. The projected flood depths are such that they would present a significant hazard to certain groups of people, including the young and elderly. The submitted FRA acknowledges that this presents a danger for some, and that such conditions are not recommended for those groups. The size of the proposed dwellings would lend themselves to occupation by families, and I cannot rule out the possibility of those vulnerable groups occupying the proposed dwellings.

¹ Woking Borough Council Strategic Flood Risk Assessment Volume 3

² Mead Realisations Ltd v The Secretary of State for Levelling Up, Housing and Communities & Another [2024] EWHC 279 (Admin)

³ Paragraph: 027, reference ID: 7-027-20220825, revision date: 25 08 2022.

⁴ Paragraph: 028, reference ID: 7-028-20220825, revision date: 25 08 2022.

16. The measures proposed in the event of a flood include sign up to the Environment Agency flood alerts, therefore the proposed housing in this location could put additional pressure on emergency services in the event of a flooding incident. Given these factors, in the event that I was minded to allow the appeal, it would not be appropriate to require a flood evacuation plan by condition as it has not been demonstrated that safe access and egress could be achieved.
17. The FRA contends that the building floor level would be above the predicted flood depths. I also note that the appellant has made considerable efforts to manage the risks from surface water on the site, through the provision of two large soakaways within the garden and the installation of an additional highway gully drain. Furthermore, the proposal includes replacing some of the existing impermeable hardstanding with a permeable surface. However, these measures do not affect my findings in terms of the sequential test and the lack of safe access and egress.
18. It is not necessary for me to explore whether the exception test would be passed, as the Framework indicates that the sequential test must be passed before the exception test can be applied.
19. The proposal would therefore conflict with Policy CS9 of the CS which states that the Council will determine applications in accordance with guidance contained in the Framework, and this will include applying a sequential approach to development in areas at risk of flooding.

Thames Basin Heaths SPA

20. The appeal site lies within 5km of the Thames Basin Heaths SPA. The SPA is defined as a European Site as it provides habitat for ground-nesting bird species including nightjars, woodlarks and Dartford Warblers. It has been established that residential development within the zone of influence would result in likely harm to the protected area through recreational disturbance. The proposal would result in a net increase in dwellings, and in combination with other permitted developments, there would be a likely significant effect on the integrity of the SPA.
21. Policy CS8 of the CS requires new residential development beyond a 400m threshold, but within 5km of the SPA to make an appropriate contribution towards mitigation in line with the Thames Basin Heaths SPA Avoidance Strategy 2022. The strategy includes securing Suitable Alternative Natural Greenspace (SANG), and a Strategic Access Management and Monitoring tariff (SAMM) from developments.
22. The SANG and landowner payment elements of the SPA tariff are encompassed within the Community Infrastructure Levy (CIL). In respect of a SAMM financial contribution, I have a draft Unilateral Undertaking before me, which once complete, would secure a SAMM financial contribution of £2,460. However, in the absence of a signed and completed legal agreement, there is no mechanism to secure the above mitigation.
23. In the absence of adequate mitigation, the scheme would conflict with Policy CS8 of the CS and Policy NRM6 of the South East Plan (2009) which seek to protect European Protected Sites. The proposal would also fail to address the requirements of the Conservation of Habitats and Species Regulations 2017.

Planning Balance and Conclusion

24. The proposal would deliver two additional dwellings in a location where the principle of development is acceptable and would contribute to the supply of housing within the Borough. I also note these are intended to be energy efficient buildings. These benefits attract considerable weight.
25. The proposal would be acceptable in terms of its effect on the living conditions of neighbouring occupiers, highway safety and parking, the standard of accommodation and the impact on existing trees.
26. However, the proposal would cause harm and be in conflict with policies in relation to its effect on character and appearance, flood risk and the Thames Basin Heaths SPA. These harms each carry significant weight and weigh heavily against the scheme. The harm and policy conflict would be to such an extent that the scheme would conflict with the development plan when considered as a whole.
27. To conclude, the proposal would conflict with the development plan and there are no material considerations which indicate the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, the appeal is dismissed.

R Lawrence

INSPECTOR