



Appeal Decision

Site visit made on 16 April 2025

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th May 2025

Appeal Ref: APP/A3655/W/24/3357966

1 Queens Avenue, Byfleet, WEST BYFLEET, Surrey, KT14 7AD

- 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 Mrs Tasha Banks against the decision of Woking Borough Council.
 - The application Ref is PLAN/2024/0478.
 - The development proposed is described as the change of use from residential to a mixed use comprising residential and a cattery and erection of a detached outbuilding for use as a cattery.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2024 and amended in February 2025. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. The revised version has been referenced in this decision.
3. The Council has referred to the Outlook, Amenity, Privacy and Daylight Supplementary Planning Document (SPD) within its reason for refusal. Although this has not been submitted, the online version has been reviewed as part of this decision.

Main Issues

4. The main issue is whether the proposed development would retain adequate living conditions for the current and future occupiers with specific regard to external space; and whether it would provide adequate biodiversity net gain.

Reasons

Living conditions

5. The appeal site constitutes a semi-detached 2-storey dwelling with parking and garden to the front and a triangular shaped rear garden. The rear garden is enclosed by mature planting along the boundaries. It is surrounded by other residential gardens and a cricket pitch to the rear which there is direct access to. The rear garden is subdivided into different sections by fencing and planting, and there is evidence that there were other structures and outbuildings within the garden, although they have been largely removed.
6. The proposal would erect a single storey outbuilding broadly halfway down the rear garden where previous garden structures had been located. It

would divide the rear garden into 2 areas. A broadly rectangular area immediately to the rear of the host dwelling and a triangular piece next to the cricket pitch. The proposal would not impact the existing front garden.

7. Woking Core Strategy (CS) Policy CS21, amongst other things, requires that new development should provide appropriate private amenity space. The SPD recommends that a minimum garden amenity area for a family dwelling over 150sqm gross floorspace should be 'a suitable area of private garden amenity in scale with the building. E.g. greater than the gross floor area of the building.'
8. There is some dispute between the main parties over the specific amount of existing and proposed garden. However, it is evident the proposal would reduce the existing external space. When taking account of the guidelines in Appendix 1 of the SPD (page 25), it is also likely that the gross floor area of the host dwelling would be larger than the private garden amenity space.
9. However, the area of garden immediately to the rear of the host dwelling would be regular in shape and a reasonable size to provide a secure, private, grassed, and sunlit space. The section of garden beyond the proposed cattery would be less accessible but would still be reasonable in size and offer additional private, secure, and sunlit external space. Although not a traditional garden layout, the 2 sections of garden would provide adequately for safe play and private enjoyment, primarily in the area closest to the host dwelling, and for more functional uses such as plant cultivation, in the area by the cricket ground. Both spaces would be physically linked, and due to the glazed and mesh construction of the proposed cattery, a level of intervisibility would be retained.
10. Therefore, although the proposal would physically reduce the amount of external space related to the host dwelling, this would not be to such an extent as to make the living conditions for the current occupants, the appellant and their family, untenable.
11. The proposal by its very nature is specific to the appellant's requirements and there are no objections to the cattery use. By using a personal condition the reduction in external space could be limited to the appellant only, because should they cease to occupy the host dwelling it would be necessary to reinstate the garden. The living conditions of future occupants could, therefore, be ensured.
12. It is recognised that customers of the cattery may need to travel through part of the retained garden to the proposed outbuilding. Nevertheless, as the appellant is also the occupier of the host dwelling, they would be able to control such access.
13. Consequently, the proposed external space would provide adequate living conditions for the present occupiers of the host dwelling and their specific circumstances, and the existing external space could be reinstated to ensure the living conditions of future occupiers are not affected. The proposal would therefore comply with the objectives of CS Policy CS21 and the associated SPD.

Biodiversity Net Gain (BNG)

14. The planning application associated to this appeal was submitted post 2 April 2024. Therefore, were planning permission granted it would be subject to the biodiversity gain condition¹. The appellant has identified on the planning

¹ As introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021)

application that they consider the proposal to fall within the scope of the de minimis exemption. However, it has not been shown that the proposal would not impact less than 25sqm of onsite habitat with a biodiversity value greater than zero. As such the proposal has been accompanied by the minimum information set out in Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 as amended², and this is not the case. Accordingly, there is insufficient information to conclude whether the proposal could meet the required 10% BNG and so it fails to meet the statutory requirements of Schedule 7A of the Town and Country Planning Act 1990.

Other Matters

15. No harm has been found in relation to character and appearance, the living conditions of neighbours, highway safety, parking, and waste disposal. However, a lack of harm cannot weigh for or against the proposal.

Conclusion

16. Whilst I have found for the appellant in relation to the first main issue. This would be a lack of harm and thus, by definition, is capable of weighing against the harm that I have found regarding the second main issue and there are no material considerations worthy of sufficient weight, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR

² and reiterated in Paragraph 011 of the Planning Practice Guidance: Biodiversity net gain - Reference ID: 17-011-20240214