
Appeal Decision

Site visit made on 7 May 2025

by **J Moore BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 July 2025

Appeal Ref: APP/A3655/W/24/3351485

Land rear of 1-3 St James Close, Woking GU21 7QF

- 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 S Piazza against the decision of Woking Borough Council.
 - The application Ref is PLAN/2024/0003.
 - The development proposed was originally described as erection of one detached two storey dwelling with associated parking and amenity space.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024, the Government published a revised National Planning Policy Framework (the Framework), with further amendments made in February 2025, which do not form a change to policy. The main parties have been given an opportunity to make comments on the revised Framework, and I have taken their comments into account.

Main Issues

3. The appeal site is described on the application form as a vacant plot. The Council accepts the land is vacant and a fence has been erected. In the Council's view, the proposal would be one of plot subdivision as the land is formerly part of the rear gardens serving Nos 1 and 3 St James Close and its lawful use is residential curtilage. The appellant accepts that the appeal site is former residential garden land but contends that the site has been an independent parcel of land since November 2013 and as such, it would not involve plot subdivision. For the avoidance of doubt, it is not the role of an Inspector dealing with a s78 appeal to determine the lawful use of the land.
4. The third reason for refusal refers to the absence of a payment or legal agreement to secure contributions to mitigate the effect of the proposal upon the Thames Basin Heaths Special Protection Area (SPA). Following the submission of a legal agreement to the appeal, the Council no longer wishes to defend this reason for refusal.
5. Therefore, the main issues are the effects of the proposal upon
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers at No 5 St James Close, with particular regard to privacy.

Reasons

Character and appearance

6. The appeal site is an L shaped parcel of land between the neighbouring property at No 85 St Johns Road (No 85), the rear boundaries of Nos 1 and 3 St James Close (Nos 1 and 3) and the side boundary of No 5 St James Close (No 5). The site is largely bounded by tall panel fencing to include a tall wooden access gate onto St Johns Road, with a shorter open mesh fence along the side boundary to No 85. Consequently, the width of the site increases towards the rear of No 3 before meeting the side boundary of the rear garden at No 5. These immediately adjacent properties are two storey, semi-detached forms with hipped roofs, as are the remaining plots within St James Close. The side boundaries of No 1 and the opposite property to the corner of St James Close have a chamfered corner, with some amenity space forming a gateway effect to the street.
7. Properties opposite the appeal site along St Johns Road are predominantly two storey semi-detached forms, with an intervening roadway and deep verge with trees and other vegetation. The wider area is characterised by a mix of house types, in fairly generous plots. Roofs are hipped or ridged, with the ridgeline running parallel to the carriageway. These factors, together with separation distances between semi-detached forms along St James Close and this section of St Johns Road result in a feeling of spaciousness.
8. The appellant does not contest the Council's measurements of the proposal in comparison to neighbouring properties. Even though the width of the plot would be slightly wider than that at No 1 and of the same depth, it would be about 1-1.5m narrower than plots serving other neighbouring properties, and of an irregular shape. It would be significantly shorter than other plots within St James Close, including Nos 3 and 5, and in relation to the plots at Nos 83 and 85 St Johns Road. For these reasons, the proposal would result in a dwelling within a much smaller and narrower plot than its neighbours.
9. The proposed two-storey detached dwelling would be positioned centrally within the plot frontage. It would occupy almost the full width of the frontage of its plot, in sharp contrast to the wider and deeper footprints of the neighbouring semi-detached forms in the immediate area with their more generous gaps to their side boundaries, and the detached form at No 81. Its plot ratio would be significantly smaller than neighbouring properties.
10. The proposed dwelling would be set back by about 9m from the road at its frontage on St Johns Road. This siting would be well forward of the main elevations at Nos 83 and 85, which are about 13m distance from the road. The appellant suggests that the siting reflects the building line along the road, with reference to a drawing submitted with the appeal. This depicts a 'current building line' which is drawn from the rear flank corner of No 1 to the most southerly point of the main elevation of No 81. However, no account is taken of the line of the neighbouring short terrace to the west of No 81, which is sited in line with that of Nos 83 and 85. In my view, a line extending from the short terrace and/or along the length of the main elevation at No 81 towards the proposed dwelling would demonstrate that it would be sited forward of these property forms.
11. While externally facing materials would accord with those of nearby properties, the ridgeline of the proposed hipped roof form would be perpendicular to the highway,

along the depth of the plot. This would not accord with the prevailing alignment of nearby properties which is parallel to the highway. The projecting gable to the front elevation includes a square bay to the ground floor, which would be discordant to the two-storey, half angled bay forms under overhanging eaves found at Nos 83 and 85 and at St James Close.

12. Consequently, the above factors would combine such that the proposed dwelling within a narrow plot (as seen at its frontage) would appear incongruous to the immediate pattern of development, and it would appear as a dominant and cramped form along this side and section of the road, undermining its otherwise spacious and regular character. The proposal would therefore fail to respect or improve the character and appearance of the area. In reaching this view, I accept that the plot width would be broadly commensurate with properties on the opposite side of the road, with similar gaps between flanking elevations of built forms to side boundaries, but those properties are at some distance from the appeal site by virtue of the deep verge and a further road, and they form a consistent semi-detached group within the street scene. My findings would apply regardless of whether the site is residential garden land or not.
13. For the reasons above, I conclude that the proposal would harm the character and appearance of the area. It conflicts with Policy CS21 of the Woking Core Strategy 2012 (CS), which (among other things) seeks to ensure that development respects and makes a positive contribution to the street scene and the character of the area in which it would be situated, paying due regard to a variety of factors including (but not limited to) proportions, building lines, layout and other characteristics of adjoining buildings and land.
14. In the absence of compelling evidence to demonstrate the lawful use of the site or any intervening land use since November 2013, the proposal would conflict with Policy DM10 of the Woking Development Management Policies Development Plan Document 2016. This policy permits the subdivision of existing plots, providing that (among other things) it does not involve the inappropriate sub-division of existing curtilages to a size substantially below that prevailing in the area, taking account of the need to retain and enhance mature landscapes; and it presents a frontage in keeping with the existing street scene or the prevailing layout of streets in the area, including frontage width, building orientation, visual separation between buildings and distance.

Living conditions of neighbouring occupiers at No 5

15. The Council's Supplementary Planning Document: Outlook, Amenity, Privacy and Daylight 2022 (SPD) recommends a minimum separation distance of 10m for 'rear to boundary/flank' relationships for two storey dwellings. The rear elevation of the proposed dwelling would be a minimum of about 5.1m from the side boundary of No 5's rear amenity space according to the Council, and about 5.86m according to the appellant. On either party's figures, this distance would not conform to the SPD.
16. The rear garden of No 5 is given to be about 22m deep. The rear boundary of the appeal site is bounded by a tall fence along the side boundary to No 5's rear garden. This would screen any potential views from the proposal at ground floor level and from rear facing ground floor windows, subject to boundary details being secured by condition. However, the proposed rear facing first floor windows

serving the larger bedroom would permit views into the rear garden area of No 5, regardless of how intensively a bedroom might be used. Although the appellant indicates a willingness to accept a condition to ensure that the rear facing windows are obscurely glazed, this would not result in a satisfactory outlook for future occupiers.

17. Due to the relationship with between the proposed dwelling and No5's rear garden, views from the upper windows in the rear elevation of the proposed dwelling would be largely limited to the rearmost sections of No 5's rear garden space, which the appellant considers to be the least used part of the garden. The representations before me indicate that there is a children's playhouse on the boundary to the proposal, and that all the garden is used for a variety of activities including play, growing produce and socialising. However, neighbouring properties to No 5 also have rear facing windows serving habitable rooms which enable more direct views of its rear garden and such views are not uncommon in urban areas. While the proposed dwelling would diminish the level of privacy presently enjoyed at No 5, the effect would not be so significant as to be unacceptable.
18. The SPD makes clear that the recommendations are guidance; that local context will be of overriding importance; and that maintaining a separation distance between main elevations equal to the height of the opposing structure will normally satisfy requirements. Given my findings above, and in the absence of any opposing elevations to the rear elevation of the proposed dwelling, it seems to me that in this instance, the Council's guidance should not be strictly applied.
19. I therefore conclude that the proposal would not significantly harm the living conditions of neighbouring occupiers with particular regard to privacy. It accords with CS Policy CS21, which seeks to ensure that new development avoids significant harmful impact in terms of loss of privacy.

Other Matters

20. Both parties refer to historic refusals for similar proposals at the site (or at least part of it) in the 1960s and 1970s. However, the precise circumstances which led to these decisions are not before me. I have considered the proposal on its own merits, in the context of current planning policy.
21. The proposal would be in an accessible location and would support the objectives of the Framework to significantly boost the supply of land for homes; and assist in meeting housing needs. Temporary economic benefits would arise during the construction phase, with further permanent benefits arising thereafter from household expenditure. These benefits would be limited by the scale of the development. While the proposal accords with various standards including those for amenity space and parking spaces, these are requirements of policy and guidance, and therefore not a benefit, such that these matters attract no weight either for or against the proposal.
22. The appeal site is in a built-up area, and if it is residential garden land it would meet the definition of previously developed land within the Framework. Paragraph 125 c) of the Framework sets out that planning policies and decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused. Given my findings on the first main

issue, the land would not be suitable in terms of the effect upon the character and appearance of the area, and therefore I do not apply any weight to this matter.

23. As the appellant considers the site to be vacant, I have also considered paragraph 125 d) of the Framework which sets out that planning policies and decisions should promote and support underutilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure). There is no substantive or compelling evidence before me to demonstrate that land supply is constrained, and therefore this matter attracts no weight either for or against the proposal.

Thames Basin Heaths SPA

24. The SPA is designated under the Conservation of Habitats and Species Regulations 2017 (the Regulations) as an internationally important breeding habitat for several rare species of birds. The proposal is beyond 400m of the SPA but within 5km of it. The Regulations require that planning permission may only be granted after having ascertained that a proposal will not affect the integrity of the relevant site. The proposal would result in a new dwelling and in combination with other development permitted in the wider area, there would be a likely significant adverse effect on the integrity of the SPA, through increased recreational activity associated with new housing.
25. The appellant has submitted a planning obligation in the form of a unilateral undertaking to the appeal to secure appropriate contributions to mitigate the effects of the proposal and the Council raises no objection to this document. If I were to allow the appeal, I would need to consider this matter further and undertake an Appropriate Assessment as the competent authority.

Conclusion

26. The proposal conflicts with policies of the development plan which seek to respect the character and appearance of an area. These policies are in conformity with the Framework. Regardless of whether the appeal site is residential garden land or vacant land, I attach substantial weight to such conflict. While the proposal would deliver limited benefits, it is clear that such benefits, either individually or collectively would not outweigh the harm that I have found.
27. For the reasons above, I therefore conclude that the proposal conflicts with the development plan read as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

J Moore

INSPECTOR