
Appeal Decision

Site visit made on 26 July 2016

by Beverley Doward BSc BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 August 2016

Appeal Ref: APP/N1730/W/16/3146796

Land adjacent to Rose Cottage, The Hurst, Winchfield, Hampshire, RG27 8DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G and J Goddard against the decision of Hart District Council.
 - The application Ref 15/01972/FUL, dated 14 August 2015, was refused by notice dated 20 November 2015.
 - The development proposed is the erection of a two bedroom cottage with associated parking.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr G and J Goddard against Hart District Council. This application will be the subject of a separate decision.

Main Issues

3. The main issues in this case are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Character and appearance

4. The appeal site is located mostly within the defined settlement boundary of Winchfield Hurst, a small rural settlement which comprises two main areas of housing. The appeal site lies within the larger of these areas. The built form within this part of Winchfield Hurst is focused along The Hurst which runs in a north-south direction and along Station Road which runs in a west-east direction. Tamplins Farm Lane runs northwards from The Hurst. The crossroads formed by The Hurst, Station Road and Tamplins Farm Lane mark the northern limit of development in this part of the settlement.
 5. The appeal site comprises part of the side garden of Rose Cottage which is located on the western side of The Hurst close to its junction with Station Road and forms part of the south-west corner of the crossroads. The dwellings on the western side of The Hurst end at Rose Cottage and when viewed from the
-

east the built-up area of the settlement appears to end at Rose Cottage. Although Hurst Farm occupies the north-west corner of the crossroads it is set back some considerable distance from Station Road. The dwelling known as Merryfield, which occupies the south-east corner of the crossroads, is also set back from the highway by about 10m and although the dwelling known as Trimmers on the north-east corner is sited closer to the highway than the dwellings in the other corners the area around the crossroads appears essentially open.

6. This openness coupled with the views that are afforded over the appeal site of the open countryside beyond when approaching the settlement from the east contributes to the character of this part of Winchfield Hurst and to the rural setting of the northern edge of the settlement. I appreciate that the open countryside does not benefit from any specific landscape designation but this does not diminish its contribution to the rural setting of this part of the settlement. Furthermore, the overhead power lines and pylons which are evident in the distance do not dominate the views over the appeal site of the open countryside beyond or detract from the rural setting.
7. The existing development on the western side of The Hurst is essentially linear in character and although there is no definitive building line they are all set back some distance from the road frontage. The proposed dwelling would be positioned around 15m-18m away from Rose Cottage and would be angled around the corner with Station Road. It would be sited between 3m-4m from the front boundary with the highway, much further forward than the other dwellings on both sides of The Hurst. Accordingly, it would be out of character with the existing pattern of development in the area and appear discordant in this context. The siting of the dwelling close to the highway and angled around the corner would, despite the retention of the existing hedge along the frontage, result in it appearing overly prominent within the street scene and although some views of the open countryside would be afforded through the gap between Rose Cottage and the proposed dwelling, the position of the dwelling would reduce the extent of these views and detract from the overall sense of openness around the area of the crossroads which makes an important contribution to the character of this part of Winchfield Hurst and to its rural setting.
8. The Council does not raise any concerns regarding the effect of the proposed dwelling on the setting of the designated heritage asset of Rose Cottage which is a Grade II listed building indicating rather that the proposed house would be well designed and proportioned in relation to the neighbouring asset. I see no reason to take an alternative view. However, having regard to all of the above I consider that the appeal proposal would cause material harm to the character and appearance of the area. Accordingly, it would be contrary to saved policies GEN1 and RUR20 of the Hart District Local Plan (Replacement) 1996-2006 (Local Plan) which taken together, amongst other things, seek to ensure that development proposals are in keeping with the local character and do not result in the loss of areas of open land or spaces in frontages which serve as characteristic features of the settlement. The proposal would also be contrary to the core planning principle of the National Planning Policy framework that planning should take account of the character of different areas.

The effect on the SPA

9. The appeal site lies within 5 km of the nearest component of the SPA, a network of heathland sites which are designated for their ability to provide a habitat for internationally important bird species. The area is designated as a result of the Birds Directive and the European Habitats Directive and protected in the UK under the provisions set out in the Habitats Regulations.
10. Policy NRM6 of the Regional Spatial Strategy for the South East of England: South East Plan 2009 (SEP), which has been retained, and saved policies CON1 and CON2 of the Local Plan indicate that planning permission will not be granted for development that would be likely to have a significant effect, either alone or in combination with other development, on the integrity of the SPA.
11. The Interim Avoidance Strategy for the SPA provides for developers to make financial contributions towards Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) to prevent the harm to the SPA that would otherwise occur and consequently comply with the relevant policies of the SEP and Local Plan.
12. The Council's Delegated Officer's report indicates that financial contributions towards the Hitches Lane SANG and towards SAMM would be necessary to mitigate against the effects of additional recreational pressure on the SPA arising from the proposed additional residential development but that no such mitigation had been provided although the applicant had expressed a willingness to enter into an appropriate agreement.
13. In its appeal statement the Council indicates that the contributions towards the provision of SANG can no longer be secured through a S106 legal agreement due to the terms of Regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010 whereby no more than 5 contributions may be pooled. Accordingly, it had been using Grampian style conditions to secure mitigation prior to the commencement of development but that, in recent appeal decisions on cases such as this, Inspectors have found that having regard to the advice in the Planning Practice Guidance (PPG) such a condition would not be an appropriate means of dealing with this issue. I agree, the appeal proposal is not a complex and strategically important development. Accordingly, the exceptional circumstances which the PPG indicates would justify the imposition of such a condition do not exist.
14. In its appeal statement the Council states that the SANG at Hitches Lane is nearing capacity and that no other SANG provided by the Council will be available in the immediate future. Accordingly, it contends that the appellant would need to make alternative arrangements, either by the provision of SANG or securing it from a private source. Since the submission of the initial appeal documentation further discussions have taken place between the main parties on this matter and it is apparent from the evidence that the Council now considers that the SANG at Hitches Lane has reached capacity.
15. There is nothing in the evidence to indicate that any alternative arrangements have been made for the provision of SANG and the appellants now contend that the scale of the development proposed, even when assessed in combination with other planning applications would not have any adverse impacts on the integrity of the SPA that could not be mitigated by the existing Hitches Lane Country Park or by Edenbrook Country Park which, whilst

provided to mitigate the SANG requirements of three other developments could be used by the occupants of the proposed development.

16. If the circumstances leading to a grant of permission had been present, in the absence of secured mitigation I would have been required to give further consideration to the impact upon the European Site in accordance with the Habitats Regulations. However, given that I have found the proposal to be unacceptable on other substantive grounds and intend to dismiss the appeal on this basis, it is not necessary in this case to do so.

Other matters

17. The lack of objections in relation to highway, conservation and biodiversity matters are neutral factors which do not serve to weigh in favour of the proposal. Furthermore, the support expressed for the proposal by the Parish Council does not serve to outweigh the harm that I have found above.
18. The proposal would contribute towards the supply of housing. However, there is nothing in the evidence before me to suggest that the Council is unable to demonstrate a five year supply of housing land as required by the Framework or that paragraph 14 of the Framework is engaged.
19. The appellant has referred to a recent judgment¹ regarding the definition of previously developed land as set out within the Framework and contends that the appeal site as a 'rural' garden should be considered as 'brownfield land' where there is a presumption in favour of development. However, as indicated above the majority of the site, which comprises the residential side garden to Rose Cottage, falls within the settlement boundary of Winchfield Hurst. Accordingly, it would seem to me that it falls within the exclusion of private residential gardens from the definition of previously developed land as set out within the Framework which relates to private residential gardens in built-up areas. However, even if I were to conclude that the appeal site does comprise 'brownfield land', whilst the Framework indicates that planning decisions should encourage the effective use of land by re-using land that has previously developed (brownfield) this does not amount to a presumption in favour of development and would not outweigh the harm that I have found would be caused to the character and appearance of the area.

Conclusion

20. To conclude therefore, the appeal proposal would cause material harm to the character and appearance of the area. Accordingly, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Beverley Doward

INSPECTOR

¹ Dartford Borough Council v Secretary of State for Communities and Local Government (CO/4129/2015)