
Appeal Decision

Site visit made on 24 November 2016

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 13 January 2017

Appeal Ref: APP/R3650/W/16/3157155

19 Knowle Farm, Old Park Lane, Farnham, Surrey GU9 0AN

- 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 & Mrs J Ricketts against the decision of Waverley Borough Council.
 - The application Ref WA/2015/1694, dated 18 August 2015, was refused by notice dated 18 April 2016.
 - The development proposed is the erection of 9 no. dwellings with associated access, parking, amenity space and landscaping following the demolition of all buildings and structures on site and removal of hardstanding.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs J Ricketts against Waverley Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I note that the draft Local Plan Part 1 (Strategic Policies and Sites) has undergone pre-submission consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 but I am not aware of the exact stage it has reached and the extent of outstanding objections or whether the policies concerned will be considered as consistent with the National Planning Policy Framework (the Framework). Consequently, in accordance with paragraph 216 of the Framework I give it very limited weight.
 4. The Farnham Neighbourhood Plan (NP) has been submitted to the Borough Council and undergone consultation. I understand that it has been submitted for independent examination. I have limited information as to the extent of outstanding objections or whether the NP will meet the basic conditions to proceed to referendum, including whether it is in general conformity with the development plan and the Framework. This limits the amount of weight that can be given to the draft policies of the NP.
 5. A Unilateral Undertaking has been submitted relating to the proposed development. This relates to a number of matters, including submission of a
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Sustainable Drainage Scheme to include a management plan for the lifetime of the arrangements, an open space management plan, financial contributions toward improvements to the a public footpath and a bridleway and contribution in line with the Thames Basin Heaths Special Protection Area (SPA) Avoidance Strategy. I will return to these matters in detail in my reasoning.

Main Issues

6. The main issues are:

- The effect of the proposed development on the Thames Basin Heaths Special Protection Area;
- The effect of the proposed development on the character and appearance of the surrounding rural area with particular regard to Farnham Old Park and the setting of listed buildings at Farnham Castle;
- The effect of the proposed development on the safety of users of the public bridleway; and
- The effect of the proposed development on the farming operations at Park Farm.

Reasons

Thames Basin Heaths Special Protection Area

7. The site lies within the zone of influence of the Thames Basin Heaths SPA that is designated under the Habitats Directive. Policy NRM6 of the South East Plan (SEP) requires appropriate avoidance and/or mitigation measures be provided to mitigate the effects of recreational disturbance on those sites from residents of new residential development. The Unilateral Undertaking confirms that a financial contribution would be made “for the provision and/or enhancement” of Suitable Alternative Natural Greenspace (SANG).
8. Regulation 123(3) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) restricts the use of pooled contributions toward items that may be funded via CIL. If five or more obligations for a project or type of infrastructure have been entered into since 6 April 2010 and it is a type of infrastructure that is capable of being funded by CIL, no more contributions may be collected toward that project.
9. I note appeal decision reference APP/R3650/W/16/3152808 where a similar contribution was accepted by the Inspector. However, in this case, the agreement is ambiguous as to whether the contributions would be spent on provision “and/or” enhancement of the SANG. I note that the Thames Basin Heaths SPA Avoidance Strategy Review 2016 suggests they may be spent on replacement or improvement of bridges, gateways and a bench. Given that these relate to maintenance works, they may not be capital items relating to infrastructure. Nevertheless, that ambiguity and the lack of reference to that Strategy within the Unilateral Undertaking mean that I cannot be certain that the payment wouldn’t result in new infrastructure and, if it would, I have limited information as to the number of contributions that have been collected toward that infrastructure. As such, I have to conclude that the contribution would be caught by the pooling restriction.

10. As a result, I am unable to take the Unilateral Undertaking into account insofar as it relates to mitigating the effects of recreational disturbance on the SPA from residents of the proposed dwellings. As such, the proposed development would not comply with Policy NRM6 of the South East Plan, or Policy FNP12 of the draft NP, that require adequate measures be put in place to avoid or mitigate potential adverse effects on the Thames Basin Heaths SPA.

Character and appearance

11. I understand that the site is located within Farnham Old Park, which forms part of the original deer park for Farnham Castle, and adjacent to an Area of Great Landscape Value. Middle Old Park joins Old Park Lane directly outside the site, and the site is bounded on two sides by residential development, with Park Farm and its associated agricultural buildings to the opposite side of Middle Old Park.
12. The site currently comprises a collection of stable buildings, barns, ménage and areas of hard standing spread out in a fairly haphazard layout that are in use as a commercial livery, that constitutes previously developed land as defined by the Framework. It is proposed to remove these and replace them with a residential development, comprising dwellings arranged around a large courtyard that seeks to resemble a traditional farm yard of timber clad buildings with brick and stone farmhouse. The dwellings would be of slightly smaller area and volume than the existing development, consolidating development within the yard area and introducing more landscaping within the proposed garden areas around the outside of the site.
13. The buildings would be single storey with dormer windows in the roofs and feature two storey elements, with a two storey farmhouse. The overall height of buildings would be slightly greater than the existing buildings, which would add some bulk to the appearance of the proposals. However, the consolidation of development on the site, combined with the reduction in volume and footprint, would overall reduce the appearance of bulk of development on the site. The buildings would have more extensive areas of glazing than traditional barns, but this would reflect their proposed residential use and would not harm the character and appearance of the locality, when set against neighbouring residential development.
14. Policy FNP10 of the draft NP confirms that the site is within Farnham Old Park that is an area of high landscape sensitivity and historic value, where development may affect the setting of the Grade I and II listed buildings at Farnham Castle. However, given the existing development on the site, the overall reduction in built form and as the development would reflect the rural nature of the location, the existing landscape character would be retained which would preserve the setting of the heritage assets.
15. For these reasons, the character and appearance of the proposed development would reflect the rural location of the site. As such, the development would comply with Policy C2 of the Waverley Borough Local Plan and the Framework which seek to protect the character and appearance of the countryside. It would also comply with Policies FNP1 and FNP10 of the draft NP that seek high quality design that responds to the heritage and distinctive character of the locality and protect or enhance heritage assets and their setting.

Bridleway

16. Old Park Lane, that forms the access to the site, is a bridleway that provides access to the livery yard, Park Farm and a number of residential properties. It is loosely surfaced and Surrey County Council (SCC), as the authority responsible for the bridleway, require a scheme of surface improvements to ensure safe access to the development. It has been agreed that a contribution should be made to SCC to be used for those improvements and this is provided within the submitted Unilateral Undertaking.
17. There is a risk that any additional vehicle traffic would conflict with other bridleway users, thus affecting the safety of users of the bridleway, particularly those on horses. However, the development would result in a reduction in vehicle trips to and from the site in comparison to the present livery use, such that the development would not increase the use of the bridleway. Nevertheless, the Council's concern is that improvements would make the bridleway more attractive to all vehicle users, including as an alternative route to Folly Hill, and that this would increase the volume of vehicle traffic along Old Park Lane. I understand that the improvement works are limited to surface management of the access, rather than widening or other improvement. Given that this is a narrow lane with limited space for vehicles to pass, it is unlikely that the works proposed would result in an attractive alternative to Folly Hill. In addition, SCC would have control of the works so as to ensure they are carried out in a manner that would not attract extraneous traffic.
18. For these reasons, the contributions toward improvements to the bridleway would be sufficient to provide safe access to the site, without harm to the safety of users of the bridleway. As such, the proposed development would comply with Policies D1, D4 and LT11 of the LP and Policy FNP30 of the draft NP that seek to protect rights of way, ensure the levels of traffic resulting from development are compatible with the local highway network and that development would not add inappropriate traffic on rural lanes that would result in unsympathetic change to the character of the lane.

Farming operations

19. I have also considered the implications of the development on the farming operations of the neighbouring Park Farm, particularly the expansion of that business in the future. The farming operations may result in some noise and odour that could have some effect on the living conditions of occupiers of the proposed dwellings, but this would be no more than would be the case with other dwellings in similar rural locations, such as the existing neighbouring dwellings. Although the development would include a dwelling closer to the farm than existing neighbouring dwellings, additional landscaping on the boundary would have some effect in ameliorating any future expansion of the business to future occupiers.
20. I understand that expansion of the farm could take the form of an increase in the sheep business or diversification into pigs or other livestock. Limited information is available as to how this would take place and different locations of new buildings have been suggested by the parties that may have a greater or lesser effect on the living conditions of future occupants of the development. Should further agricultural buildings be required in the future, these would be subject of relevant planning regulations and their effect would be assessed at that time.

21. For these reasons, the proposed development would not materially compromise the farming operations at Park Farm. As such, the development would comply with Policy D2 of the LP that seeks to ensure residential development is not located close to premises which generate significant disturbance or pollution. In addition the development would not result in the loss of agricultural land such that it would comply with Policy RD9 of the LP that seeks to protect the best and most versatile agricultural land from loss.

Other matters

22. The Unilateral Undertaking includes provisions relating to the management of the open space within the development. These require further submissions for agreement with the Council in order to ensure that it is managed and maintained from the date it is laid out. I am satisfied that such a provision is adequate for the long term management of the open space and this can best be achieved through a Unilateral Undertaking rather than a planning condition.
23. Similarly, the Unilateral Undertaking would require further submissions relating to the maintenance and management of the sustainable drainage system for agreement with the Council. However, I consider this matter is better addressed through a planning condition in accordance with paragraph 203 of the Framework.
24. Financial contributions are provided within the Unilateral Undertaking toward upgrading of the surface of footpath 92 that would provide a pedestrian link from the site into Farnham. I see no reason to disagree that this would be an improvement on current arrangements.
25. For these reasons and those set out concerning the bridleway, with the exception of the provisions relating to the SPA and the sustainable drainage system, I conclude that the contents of the Unilateral Undertaking are necessary, directly related to the development, and fairly and reasonably related in scale and kind as required by Regulation 122(2) of the Community Infrastructure Levy Regulations.
26. I note reference to the demand for a livery or riding school, but limited evidence has been provided to demonstrate that the loss of the current use would result in unacceptable harm to the provision of such facilities in the area.
27. Concern has been raised regarding noise pollution from the site, but this would be limited and unlikely to be significantly different from the current use of the site as a livery yard. Generous gardens would be provided, such that the dwellings would be some distance from their nearest residential neighbours. As such, the development would not result in overlooking of, or cause loss of daylight or sunlight to, those properties such that it would not cause harm to the living conditions of occupiers of those dwellings. There is sufficient space on the site for storage of bins and details of how waste water would be disposed of is provided under separate regulations.
28. In addition to the policies referred to above, I have been referred to policies within the draft NP that relate to ecology and infrastructure contributions. My attention has not been drawn to any conflict with these policies and I see no reason to consider that the development would conflict with those draft policies in any event.

29. I note that the Council are unable to demonstrate a five year supply of deliverable housing sites, such that relevant policies for the supply of housing should not be considered up to date. Whilst this supports my conclusions on most of the main issues, it would not overcome the conflict with the CIL Regulations.

Conclusion

30. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR