The Planning Inspectorate

Appeal Decision

Site visit made on 3 January 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 13th January 2017

Appeal Ref: APP/N1730/W/16/3159562
The Bourne, Redlands Lane, Crondall, Farnham, GU10 5RF.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
- The appeal is made by Dr and Mrs A Williams against the decision of Hart District Council.
- The application Ref. 16/00462/FUL, dated 22 February 2016, was refused by notice dated 23 May 2016.
- The development proposed is the conversion of an ancillary domestic outbuilding to a single unit of residential accommodation set within its own curtilage.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the residential use of the property on natural habitats forming part of the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Background

3. The appeal site contains a large outbuilding which lies within the garden of the main house 'The Bourne' which is situated on the edge of the village of Crondall. The access to the main house and to the outbuilding, which is said to be used for ancillary domestic purposes, also provides access to Crondall doctors' surgery where one of the appellants, Dr Edwards, retains a managerial interest. The outbuilding has timber clad elevations and a main mono-pitch roof with a lower offset roof over an extension, and at the time of my visit was part of the space was in use as a garage and for the storage of garden items. It is proposed to convert the outbuilding into a self-contained dwelling with its own residential curtilage.

Policy context

4. The development plan includes saved policy NRM6 of the South-East Plan; and saved policies in the Hart District Council Local Plan adopted in 2009. Although it is apparent that the site of the outbuilding lies in the countryside outside of the settlement, to which policy RUR2 applies and this generally restricts new residential development, saved Policy EN2 supports the conversion of existing buildings to housing provided that the building is of permanent and substantial construction. The principle of a conversion generally accords with the policy in the National

Planning Policy Framework (NPPF) which states in paragraph 55 that the special circumstances needed for an isolated new home can be the reuse of a redundant or disused building and leads to an enhancement to its immediate setting. The evidence submitted with the application reasonably demonstrates that the outbuilding can be converted where the main frame of the building would be retained and new walls built internally. In terms of national policy, while the building is not redundant it appears to be little used and I also consider that the overall setting of the building would be enhanced by its conversion. The principle of the conversion therefore reasonably accords with national and local policy subject to the specific main issue identified regarding the effect of the additional population created by the new dwelling on natural habitats.

Effect on natural habitats

5. The Council advises that the application site lies within a 5km zone of influence around an area forming part of the Thames Basin Heaths Special Protection Area (SPA). This area is protected under European and UK law, principally in the form of the Habitat Regulations, because the network of heathlands provides a special wildlife habitat. It is established that additional residential development within 5km of the SPA, on its own and in combination with other development, will have a significant effect on the SPA and should not be permitted unless the impact caused by additional population arising from the development can be mitigated.

6. Policies and proposals for avoidance measures have evolved to provide alternative areas of open space for recreation know as Suitable Alternative Natural Greenspace (SANG) and to be acceptable new development must contribute to the provision of a SANG normally though a formal undertaking made under section 106 of the Act. Further, within the policy, contributions from development can be put towards the implementation of the mitigation measures and also the funding of Strategic Access Management and Monitoring (SAMM).

7. However, the Community Infrastructure Levy Regulations 2010 now state that the number of 'pooled contributions' towards a single infrastructure project should not exceed 5 contributions and the Council indicates that this figure has already been exceeded by individual contributions towards the provision of its own SANG. Therefore the Council can no longer collect a financial contribution that would be pooled towards existing SANG through Agreements made under section 106 of the Act. The Council also advises that it is no longer possible to use a 'Grampian' condition (a negatively worded condition imposed to limited the implementation of the development until as specific action has taken place) as such conditions are deemed to be inappropriate by the national Planning Practice Guidance other than in exceptional circumstances such as involving more complex and strategically important development.

8. The Council advises that the Council owned SANG at Hitches Lane has now reached capacity and there is only limited capacity at another site at Hayley Meadows. Because of this scarcity in the further supply of SANG the Council adopted an interim Avoidance Strategy (IAS) as revised on the 2 June 2016. Under the IAS small scale development sites involving less than 10 dwellings can contribute to any SANG in the district. However for public SANG sites the Council's allocation policy must be met, separate from any planning policy document requirement.

9. In this case it appears that the appellants are prepared to make the financial contribution towards mitigation and submit that the application should be determined in accordance with the practice previously applying when the

application was made rather than the revised IAS, however I have to consider the policy basis as it exists at the time of my decision on the appeal.

10. Further, even if the proposal accorded with the practice prior to the IAS, the over-riding problem is the lack of alternative SANG and the mechanism for bringing forward a contribution given the restrictions on 'pooled contributions' and the use of 'Grampian 'conditions mentioned above. Moreover, even if the proposal accorded with the revised IAS in terms of the use of previously developed land, as the revised strategy involves a landowner control over public SANG sites the Council cannot be forced to accept a solution through an appeal decision. The IAS also makes clear that mitigation though SANG need not come forward through a public site and suitable private land may be appropriate but there is no proposal before me for such an alternative.

11. The appellants also make reference to a separate proposal from another party over Prior Notification 16/02758/PRIOR, and related correspondence with the Council, which makes reference to an appeal decision in May 2016 where the Inspector is said to have concluded that while the requirements of the Habitats Regulations needed to be resolved prior to the start of works the process of obtaining 'Prior Approval' were two separate processes that are independent of each other. The details of this decision have not been submitted but in any event I do not consider that the circumstances of that 'Prior Approval' are the same as the ones in this appeal where all of the relevant merits of the development have to be assessed and in any event there is no proposal before me to put forward any mitigation of the effects of further residential development.

12. In the absence of reasonable mitigation through a SANG or other overriding public interest, I have to conclude that the proposed additional residential unit would be likely to have a significant adverse effect on the SPA and be contrary to the provisions set out in policy NRM6 of the South-East Plan and saved policies CON 1 and CON 2 of the Hart District Council Replacement Local Plan. The proposal also conflicts with the guidance set out in paragraph 118 of the National Planning Policy Framework which aims to conserve and enhance biodiversity.

13. One of the appellants, Dr Edwards, refers to the 30 years that he has lived in the village and contributed to the community through being the village doctor and developing the New Surgery. Although the outbuilding to be converted would be convenient to the appellants and his continuing contribution to this health facility, these personal qualities and contribution do not outweigh the effects of the proposal as a residential unit on the special qualities of the recognised wildlife habitats.

14. Overall, I conclude that there are no other considerations which outweigh the conflict with development plan policy and the adverse effects that I have identified that the proposal would cause.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR