
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: 20th January 2017

Appeal Ref: APP/N1730/W/16/3155660

“The Yard”, Beacon Hill Road, Farnham, GU10 5BZ.

- 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 Mr C Watts against the decision of Hart District Council.
 - The application Ref. 16/00583/FUL, dated 4 March 2016, was refused by notice dated 23 May 2016.
 - The development proposed is the erection of a detached replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached replacement dwelling at “The Yard”, Beacon Hill Road, Farnham, GU10 5BZ, in accordance with the terms of the application, Ref 16/00583, dated 4 March 2016, and the revised plans submitted as ‘Option 2’, subject to the conditions set out in the attached Schedule.

Procedural matter

2. During the consideration of the application it is apparent that the appellants’ agent prepared revised plans, now known as Option 2, for discussion with Council officers, but it is not clear if these plans were formally submitted to the Council to supersede the original plans. The revised plans have been submitted with the appeal and they make minor changes to the position of the footprint of the new dwelling and the driveway and parking area. Having regard to the principles established in the case of *Wheatcroft*¹ I am satisfied that the amendments are not substantial and do not change the scheme in a material way that the local community could reasonably have expected to have been able to make representations on. I will therefore take the plans forming Option 2 into account in assessing the appeal.

Main issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area having regard to Local Plan policy RUR23 on replacement dwellings and the effect on trees;
 - Whether the dwelling proposed would afford reasonable living conditions for the occupiers particularly regarding the usable garden space.

¹ *Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]*

Reasons

Background

4. The appeal site is based around the existing property of Aylesford House which is set back from the frontage and lies on the edge of a small group of ribbon housing development in the countryside. The land rises very steeply to the south where there is a hillside of woodland with mature trees. The application site includes land apparently outside of the immediate curtilage of Aylesford House and the site plan shows a group of outbuildings referred to as 'The Cabin', a summer house, and these are sited close to the main property, together with the existing double garage, known as 'The Yard' and where there is access off Beacon Hill Road. There is also a new access to Aylesford House which the plans state was permitted under ref. 15/02419.
5. It is apparent that the ownership of part of the application site around Aylesford House has now been separated from the remainder of the site which is now in the ownership of the appellant and I have had regard to the dotted line of the site area shown on plan 431-PO13A as the practical extent of the application site.
6. It is proposed to demolish the garage building forming 'the Yard' and erect a modest property where the two bedrooms would be accommodated in the roof space and lit by windows in the gables and dormer windows. The original plans show the building set back into the site and angled to the frontage whereas the Option 2 plans re-site the new house to a position about the same as the front of the existing garage building with a parking area to the front and side of the house with access to the new driveway.
7. The planning history of the overall site is complex and includes an issue about the emergence of a second unit of residential accommodation in the various outbuildings, extended caravan, lorry body and 'Rova Cabin' sited around Aylesford House. Nevertheless, the parties agree that a Certificate of Lawful Development was granted in 2010 under ref. 10/01565/LDCEX which recognised the overall site as comprising two dwellings with storage which is incidental to the enjoyment of the dwelling houses.
8. The proposal therefore seeks to take up and be the replacement of the second residential unit accepted on the site. It is apparent from the appeal statements that the outbuildings, caravan, lorry body and 'Rova-Cabin' at 'The Cabin' have been demolished and/or removed from the site, but I was not able to see into the hinterland of the site to confirm this at my visit.

Policy context

9. The development plan includes saved policies in the Hart District Local Plan. These predate the National Planning Policy Framework (NPPF) however, the main relevant policy RUR 23, regarding replacement dwellings, is broadly consistent with the NPPF which recognises the character and beauty of the countryside and the importance of good design in new development. The policy should therefore be given significant weight. Similarly, saved policies CON 8 regarding the retention of trees, and GEN 1 providing general policies for the control of development are also broadly consistent and command similar weight.

Effect on character and appearance

10. The Council accepts that it is reasonable to consider a second dwelling within the overall part of the application site as it is the same area as that covered by the Certificate of Lawfulness and that parts (i) and (ii) of saved policy RUR 23 are satisfied. Part (iii) of the policy says that the replacement dwelling must not be disproportionate in size to the existing dwelling and the Council also refers to the reasoned justification to the policy which indicates that the new dwelling should not be intrusive in the countryside.
11. The appellant says that the footprint of the new dwelling proposed at 129sqm is a slight reduction in the cumulative footprint of the buildings and structures taken into account in the Certificate of Lawfulness and as shown on plan 1431-P310A and that the new dwelling would only be about a 10% increase in the comparative cumulative volume of the structures. Given the unusual circumstances that have arisen with the assortment of structures that were recognised to form part of the second dwelling, I do not consider that it is inappropriate that these are consolidated into the scale of the new dwelling proposed with a minor increase in total volume. Further, having regard to the physical constraints of the site and the steeply sloping land to the southern side as well as the backland position of the main dwelling, I see it as a positive advantage that the location of the new dwelling is at the front of the site. To my mind the scale of the new dwelling proposed is not disproportionate to the overall size of the structures being replaced.
12. While the proposed building would be more prominent at the front of the site than Aylesford House itself, or the various outbuildings that were there, this location would be consistent with the location of the double garage, the largest of the 'existing' buildings. It would also fit in with the general pattern of development and the other houses along this ribbon frontage where there is some variation in the setback between the houses and the road. Although elevated on the site, views of the new house from a northerly direction would be restricted by the presence of the existing trees and when approaching from a southern direction the view would be in the context of the existing ribbon of similar houses and with the backdrop of the trees.
13. I conclude that even though the replacement dwelling, as shown in Option 2, would be on higher land at the end of the frontage, it would not appear unduly prominent or out of place in this enclave of development in the countryside. I am therefore satisfied that the revised proposal in Option 2 reasonably accords with the local policy requirements for a replacement dwelling in the countryside.
14. The effect on trees also has a bearing on the character and appearance of the area. At the site visit I noted the difference in land levels across the site and that to the south and east of the existing garage the land has been excavated away from the hillside although this work does not appear to have been undertaken recently. There is also evidence of tree stumps where some mature trees have been felled on the higher level part of the site. The Council has confirmed that there are no trees on the site which are subject to a preservation order nor is the site in a conservation area.
15. Dealing with the proposal as the land lies at the moment and in relation to the existing trees, both the original scheme and the Option 2 plans require the formation of a retaining wall to enclose the higher land to the south. However,

beyond the retaining wall I consider that sufficient land would remain undisturbed within the application site to ensure that the trees that lie on the boundary or on neighbouring land would not be harmed. Such trees can be protected during building work by protective fencing although the exact alignment of this would need to be revised from drawing TPP03 to accommodate the siting of the dwelling shown in Option 2.

16. Overall, I am satisfied that the proposal would not result in the loss of existing trees of amenity value and that the development does not conflict with the provisions of saved policy CON 8.
17. Bringing these points together, I find that the scheme proposed in Option 2 would satisfy the requirements of saved policy RUR 23 in that the proposed replacement dwelling would not be of a disproportionate size and its design and siting would not have a harmful impact on the character and appearance of this area of countryside. Neither would the development harm the area by resulting in the loss of trees that contribute to the amenity of the area.

Effect on living conditions

18. The Council's concerns on this issue relates to the 'useability' of the garden space proposed and its overshadowing by trees and the proximity to the road so that inhabitants would suffer from road noise. At my site visit I noted that the orientation of the site is such that the woodland to the south would generally overshadow the proposed dwelling and restrict direct sunlight for much of the day/year although this is a similar situation to that applying to Aylesford House and many of the neighbouring properties.
19. In the original scheme the siting of the house some 10m from the road would have resulted in the 'flat' element of the garden being at the front adjacent to the road with the back garden being located behind the property and the retaining wall over 2m high. The scheme in Option 2, with the house set back some 5m from the road would provide an area of flat space to the side and rear of the house in front of the retaining wall before the 'top' garden.
20. In the absence of any detailed local policy on the size and provision of garden space, it appears to me that the scale and nature of the garden proposed in Option 2 would not be unusual for a dwelling in a wooded and undulating area of countryside. It would afford its occupiers useable space and privacy away from the public realm and noise of the road as well as a gardening challenge. As a matter of judgment I find that the proposed garden area would provide reasonable living conditions for the occupiers of the property and would not conflict with the objectives of the general standards set out in saved policy GEN 1 or the guidance in the NPPF.

Other matters

21. I note that the site lies within 400m of land that forms part of the Thames Basins Heath Special Protection Area (SPA). Normally there is policy concern about the effects of additional population arising from new residential development on the special wildlife habitats of this area. However, as it has been formally recognised that the overall site at Aylesford House comprises two independent dwellings and that the current proposal is for a replacement of one of these dwellings, I find that the development proposed would be unlikely to give rise to additional population or have any significant effect on the SPA.

Planning balance

22. Bringing together my conclusions on the main issues, I have found that the proposal put forward in Option 2 would be a replacement dwelling of a proportionate size to the dwelling being replaced and the design and form of the dwelling would not harm the character and appearance of this rural area. The garden space proposed would provide reasonable living conditions for the occupiers of the new property. The dwelling would also not be likely to result in the loss of trees that contribute to the amenity of the area.
23. The proposal therefore accords with the relevant provisions of the saved policies in the development plan that I have mentioned above and the general guidance in the NPPF when this is read as a whole.
24. There are no other considerations which outweigh the accord with the development plan and in line with paragraph 14 of the NPPF planning permission should be granted for the development.

Conditions

25. In terms of conditions the Council recommends 10 which I will consider under the same numbering. In addition to the statutory condition on the timing of the development (1) it is reasonable and necessary to ensure that the parking arrangements are implemented as shown on the submitted plan and thereafter retained (2) in the interests of highway safety and for similar reasons to have measures to regulate the construction phase (7). In order to preserve the character and appearance of the area it is reasonable and necessary to have a condition requiring further details of hard and soft landscaping (3) and their implementation (4), together with a condition to ensure that the external materials of the development are agreed with the Council prior to implementation (6). Finally in order to protect existing trees around the site it is reasonable and necessary to require the submission of a plan showing excavations in the vicinity of trees so that these are not harmed but I will expand the condition from that recommended to ensure that the tree protection works are implemented prior to the commencement of development (8) and (9). Finally it is reasonable and necessary to specify the plans that are approved and that the development shall be undertaken in accordance with them in the interests of clarity and to maintain the appearance of the area. These plans are the ones forming option 2.
26. The Council also suggests a condition to require the windows to all WC, bathrooms and showers to be glazed with obscure glass but the house is far enough away from other properties for such a condition not to be necessary in the public interest and such glazing may be left to the occupiers of the property. I will therefore not impose this condition (5).

Conclusion

27. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The approved parking facilities for vehicles shall not be used for any purpose other than the parking of motorised vehicles and access shall be maintained at all times to allow them to be used as such.
- 3) No development shall take place until full details of both hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. The landscaping details shall include, as appropriate, proposed finished levels and/or contours, means of enclosure of unbuilt open areas, car parking layouts, other vehicle and pedestrian access and circulation areas, hard surfacing materials and artefacts and structures (e.g. furniture, refuse or other storage units, signage, lighting, external services, manholes, etc.). Soft landscape details shall include planting plans, written specifications (including cultivation and other operations associated with plant establishment), schedules of plants, noting species, planting sizes and proposed densities where appropriate. Details shall further include a proposed timetable for planting and laying out of hard surfaces.
- 4) Hard and soft landscaping works shall be fully carried out in accordance with the approved details, including the approved timetable, and to a reasonable standard in accordance with the relevant provisions of appropriate British Standards or other recognised codes of good practice. The Council shall be notified in writing of the completion of the scheme or any agreed phase of such scheme. Any trees or plants which, within a period of five years after approved completion, are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of similar species, size and number as originally approved, unless the Council gives its written consent to any variation.
- 5) No development shall take place until details and samples of all external surfaces, including bond and type/colour of mortar, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with approved details.
- 6) No development shall take place until details of measures to be taken to prevent mud and spoil from vehicles leaving the site during the construction works being deposited on the public highway and measures to be taken for the parking and turning on site of operatives and construction vehicles during the construction period have been submitted to and approved by the Local Planning Authority in writing. The agreed measures shall be fully implemented before the development commences. Such measures shall be retained throughout the duration of the construction period.
- 7) No development shall take place until details of the design of building foundations and the layout, with positions, dimensions and levels, of service trenches, ditches, drains and other excavations on site, insofar as they may affect trees on or adjoining the site, shall be submitted to and approved in writing by the Local Planning Authority. All excavations within 5 metres of the stem of any retained trees shall be hand dug

unless the applicant has obtained written approval from the Local Planning Authority.

- 8) No work shall take place until details of method statements where appropriate, for all trees, hedges, hedgerows and shrubs on site to be protected by a tree protection fence, unless indicated as being removed, have been submitted to and approved in writing by the Local Planning Authority. The trees, hedges, hedgerows and shrubs shall be retained and protected in accordance with the approved details for the duration of works on the site and for at least five years following occupation of the approved development, unless otherwise agreed by the Local Planning Authority. Any such vegetation immediately adjoining the site shall be protected on the site in a similar manner for the duration of works on the site.

Any such vegetation removed without the Local Planning Authority's consent, or which die or become, in the Authority's opinion, seriously damaged or otherwise defective during such period shall be replaced and/or shall receive remedial action as required by the Authority. Such works shall be implemented as soon as is reasonably practicable and, in any case, replacement planting shall be implemented by not later than the end of the following planting season, with planting of such size and species and in such number and positions as may be agreed with the Authority in writing.

- 9) The development hereby permitted shall be carried out in accordance with the following approved plans: Option 2: 1431-PO10-A; 1431-PO11-A; 1431-PO12-A; 1431-PO13-A; 1431-PO14-A; 1431-PO15-A; 1431-PO17-A.