

Appeal Decision

Site visit made on 14 February 2017

by David Cliff BA Hons MSc MRTPI

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

Decision date: 13 March 2017

Appeal Ref: APP/P1750/W/16/3164317

Ground Floor Rear, 41 Victoria Road, Farnborough GU14 7PA

- 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 Gary Reid (Flag Associates) against the decision of Rushmoor Borough Council.
 - The application Ref 16/00356/FULPP, dated 6 May 2016, was refused by notice dated 4 July 2016.
 - The development proposed is change of use of rear ground floor from A2 to residential use with minor external alterations.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Gary Reid against Rushmoor Borough Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposed development in relation to (i) the integrity of the Thames Basin Heath Special Protection Area and (ii) the absence of parking provision.

Reasons

Thames Basin Heath Special Protection Area

4. The site is located within 5km of the Thames Basin Heath Special Protection Area (TBHSPA). The Conservation of Habitats and Species Regulations 2010 are applicable. The TBHSPA comprises a network of heathland sites which are designated for their ability to provide a habitat for the internationally important bird species of woodlark, nightjar and Dartford Warbler. The proposal, in combination with other developments, would have the potential to result in significant impacts upon the TBHSPA through increased recreational use.
 5. The appellant has submitted a unilateral undertaking to pay a 'Special Protection Area Contribution' of £4039 towards the improvement of open space at Hawley Meadows and towards Strategic Access Management and Monitoring (SAMM), in order to mitigate the potential impact of the development on the TBHSPA. The undertaking does not provide details of how the sum to be paid would be split between the improvement of open space contribution and the
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SAMM contribution. Furthermore, the undertaking provides that the payment would be towards the improvement of the open space at Hawley Meadows (as well as SAMM) but no further detail is provided of what such 'improvement' would involve. In particular, it is not clear whether this part of the contribution is intended to improve existing Suitable Areas of Natural Greenspace (SANGs), rather than make provision for new SANGs. From the evidence before me, it has not been demonstrated that the contribution would not amount to the funding or provision of infrastructure (and therefore would be restricted by Regulation 123 of the CIL Regulations).

6. In addition, as it is a unilateral undertaking there is no obligation upon the Council as to how the contribution would be spent. Although details of this are set out in the TBHSPA Avoidance and Mitigation Strategy 2012, the lack of specific detail in the undertaking itself creates uncertainty as to how the required mitigation would be secured in this case.
7. Furthermore, in response to the appellant's undertaking, the Council states that the appellant is wrong to assume that there would be mitigation available at Hawley Meadows Suitable Alternative Natural Greenspace as no allocation has been made and mitigation capacity is finite and in short supply. Whilst the appellant argues that there is sufficient SANGs capacity available, from the evidence before me this is not proven.
8. Although the appellant argues that the completion of a unilateral undertaking has been acceptable on other sites within the Council's area, I have not been provided with the details of the particular circumstances where this has been so. In any case, I have found the proposal to be unacceptable for the reasons set out above.
9. Therefore from the information before me, I cannot be certain that the appeal scheme, in combination with other development, would not adversely affect the integrity of the TBHSPA. In these circumstances, acting in accordance with the precautionary principle, I find the appeal scheme unacceptable in relation to this issue and contrary to policy CP13 of the Rushmoor Core Strategy. Given the sensitivity of the protected areas, their European protection along with the protection within the hierarchy of the designated sites in the National Planning Policy Framework, I give significant weight to the harm arising from the potential for likely significant adverse effects.

Parking

10. The site is located in convenient proximity to both a range of shops, services and facilities along with public transport provision. It is therefore a location where a future occupier of the flat would not necessarily need to rely on owning a private vehicle for his or her day to day requirements. I do, however, give weight to the Council's argument that, in spite of the sites sustainable location, residents may still own a private car and that car ownership is high in even the most sustainably located developments.
11. The Council refers to complaints from residents who move into premises without car parking provision. Nevertheless, no evidence of such complaints has been provided and in any case there is no indication that such complaints would amount or relate to any planning harm.

12. Although Principle 5 of the Council's Car and Parking Standards Supplementary Planning Document (2012) requires the provision of at least one car parking space per dwelling, it also recognises in the accompanying text that in some circumstances where there has been a change of use it would still be necessary to take into account the balance of parking provision from the previous use of the building (in accordance with Principle 2). I therefore consider it relevant to take into account the existing authorised office use in this respect. Whilst the Council argues that a resident might wish to own a car and keep it close to the residence, it appears to me that given the limitations for parking in the vicinity of the site, a future occupier of the site is likely to be dissuaded from owning a car in this case.
13. Even should any future occupier wish to own a car there is no compelling evidence before me that the inability to park the car close to the site would result in any material planning harm, or any adverse implications for highway safety. It also seems to me that this is a case where an occupier might choose not to own a car and therefore the proposal would accord with one of the Council's aims to reduce the reliance on the private car.
14. There is no existing vehicular access to the site at the rear and whilst there is an adjacent private car park, I do not consider that the appellant's lack of evidence to show how this might be used in conjunction with the development weighs significantly against the acceptability of the proposal.
15. Planning permission has been previously granted for the conversion of the first floor of the premises into two residential units with no parking provision made. Although the Council says that the issue of car parking was not a material planning consideration in that application I am unclear as to why this should have been so as presumably the same policies would have been applicable as for the current appeal proposal. Furthermore, even had it been submitted as a prior approval application, it would seem to me that parking could still have been a relevant matter under considerations relevant to the transport and highways impacts of the development. In any case, I do not consider that any harm would result from the current proposal, irrespective of the parking provision for the other conversion.
16. Therefore, in this case, whilst the proposed development would not provide a parking space, I find that no material harm would arise in relation to the overall transport and parking aims of policy CP16 of the Rushmoor Borough Council Core Strategy (2001), the general aims of policy ENV16 of the Rushmoor Local Plan Review 1996 -2011 (August 2000) and the Car and Cycle Parking Standards Supplementary Parking Standard 2012.

Other matters

17. Whilst the development would make a small increase in the supply of housing in the area and would be in a sustainable location close to local facilities and public transport provision, this does not outweigh the harm I have identified in relation to the TBHSPA.

Conclusion

18. Whilst I have found no harm to arise from the absence of parking provision, the proposal would be unacceptable in terms of its potential impact upon the TBHSPA. That harm is the overriding consideration. It is therefore contrary to

the development plan and material considerations do not indicate that the proposal should be determined other than in accordance with it.

19. Therefore, having regard to all other matters, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR