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## Appeal Decision

Site visit made on 13 March 2017

**by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

**Decision date: 24 March 2017**

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**Appeal Ref: APP/R3650/W/16/3163466**

**Dellside, Wings Road, Farnham, Surrey GU9 0HN**

- 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 Dean Sewrey against the decision of Waverley Borough Council.
  - The application Ref WA/2016/0594, dated 23 March 2016, was refused by notice dated 19 May 2016.
  - The development proposed is the erection of a three bedroom dwellinghouse.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effects of the proposed development on the character and appearance of the area, with regard to:
  - a) its effects on trees that are the subject of a Tree Preservation Order and
  - b) provision of parking facilities.

### Reasons

3. The appeal site is a broadly triangular plot of land that was originally part of the garden of Dellside. It is accessed by a private drive that leads to four properties. The site is predominantly level, but has a steep slope on its western boundary where a ditch runs between it and the garden of No 23 Folly Lane North. A previous scheme for a detached dwelling on the site was dismissed on appeal<sup>1</sup> in 2011 due to the effects of the proposal on the protected trees. The current scheme is for an amended proposal that seeks to address the previous Inspector's concerns.

### Trees

4. There is a Tree Preservation Order that protects two oak trees on the western boundary of the site. These are referred to as T7 and T9 within the Arboricultural Impact Assessment and BS 5837 Tree Survey submitted with the appeal. From what I have read, it appears that the concerns primarily relate to the effects of the current proposal on T7 and for clarity I shall refer to it as such throughout this decision.

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<sup>1</sup> App/R3650/A/11/2153349

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5. T7 is a mature oak which is a dominant landscape feature within this residential area of Farnham. It is highly visible from the surrounding houses, roads and public footpath No 157 due to the height and spread of its canopy. It therefore has a significant public amenity value and makes a positive contribution to the character and appearance of the area.
6. The arboricultural report considers this tree to be in fair condition with a good life expectancy. The base of its trunk is in the low lying area at the bottom of the steep slope that occupies the western side of the appeal site. This may cause its roots to be growing in a restricted manner. The appellant suggests that a root protection area (RPA) extending to 7.4m beyond the trunk of T7 would be adequate, in which case the proposed dwelling would not encroach onto this area. However, the Council considers that an area of up to 9m should be protected, which would mean that the footprint of the proposed dwelling would be marginally within the RPA. Neither party has provided details of how the extent of the RPA has been calculated. However, based on the size of the three stems, it seems to me that BS 5837:2012 suggests that the RPA should be closer to 9m than 7.4m. On this basis, I consider a precautionary approach which adopts the larger area would be more appropriate in this case.
7. I am aware that the majority of the sensitive roots are usually within the top 600mm of the ground and that mature trees are more susceptible to damage than younger ones. Although the appellant contends that the foundations of the proposed dwelling would be above the roots of T7, this is not agreed by the Council's tree officer who is of the view that they would follow the profile of the land. From what I saw on my site visit, it would appear that some clearing and levelling of the site has taken place since the previous appeal decision. It is therefore not possible to be certain at what depth the roots of the tree are below the existing ground level. In the absence of this information, I am not persuaded that the tree could be adequately protected by the imposition of a condition to agree details of the foundations, including cross-sections and levels.
8. Even if the building could be constructed without damage to the roots of the tree, the windows of the kitchen/dining room and those serving bedrooms two and three on the first floor would look out directly on T7. As a consequence of the position of the tree at the bottom of the slope, the spread of its canopy would be particularly noticeable at ground and first floor level. The arboricultural report recommends lifting the crown to 3m above ground level, but that would not necessarily take it above the house given the difference in levels across the site. The branches would still appear to be very close to the windows on the western elevation. The proximity of T7 to these rooms would appear overbearing, seriously restricting the amount of light reaching the windows and casting a shadow over the house for much of the afternoon.
9. I accept that some minor pruning could partially address this problem without affecting the amenity value of the tree. However, I consider that there would be pressure from future occupants to undertake much more extensive works to reduce its effect on their property. Even though the ownership of the tree appears to rest with 23 Folly Lane North and therefore its total removal would be unlikely, it has a split trunk and therefore one section of the tree leans well into the appeal site. It could therefore be difficult to resist requests to remove branches that project towards and hang over the appeal site. Any such works would seriously erode the amenity value of the tree in its wider setting.

10. I acknowledge that the living room and master bedroom of the proposed dwelling would not be adversely affected as their main outlooks would be over the south-facing garden. I am therefore satisfied that the tree would not appear overbearing from these rooms, which would receive adequate light and sunshine due to their triple and double aspects. However, these factors do not outweigh my concerns about the pressure to lop and prune the tree in order to improve the outlook and light on the western elevation of the proposed dwelling.
11. Taking all these factors into account, I consider that the proposed development would lead to unacceptable pressure to prune and lop the protected oak tree, T7, significantly reducing its amenity value. I therefore conclude that the proposal would be harmful to the character and appearance of the area, contrary to saved Policies D1, D4, D6 and D7 of the Waverley Borough Local Plan (Local Plan). These policies, amongst other things, require development to respect local distinctiveness, including existing features such as trees which make a positive contribution to the character of the area.

#### *Parking provision*

12. The proposed dwelling would be at the end of a private driveway that currently serves four dwellings, each of which has off-street parking. The proposal provides 2 spaces with a garage and a forecourt parking area. The Council has adopted its own *Parking Guidelines* which were prepared pursuant to paragraph 39 of the Framework. This sets out a minimum requirement for a dwelling outside a town centre with three or more bedrooms as 2.5 spaces. In the case of a proposal for a single dwelling, 3 spaces are therefore considered to be necessary to meet the requirements of the guidelines. If fewer spaces are proposed a clear justification is required to depart from the standards.
13. Car ownership in Waverley averages 1.5 cars per household and some wards exceed this average. There was no definitive evidence that the area within which the appeal site is located has above average levels of car ownership or that there are problems associated with existing on-street parking in the area. However, the private driveway is narrow, and parking a vehicle outside the site would restrict the area in which to turn around at its far end. This would necessitate additional manoeuvring for vehicles entering or leaving Dellside. The proposal would therefore represent a poor layout that would not function well alongside the existing development that is accessed from the private driveway.
14. The sharp bend on Wings Road close to the driveway already restricts the availability of safe on-street parking space nearby, notwithstanding the absence of formal parking restrictions in the surrounding area. Furthermore, the approval of an additional access at No 28 in order to secure 3 parking spaces for No 28 and a proposed dwelling which was granted permission in April 2016<sup>2</sup>, will reduce the on-street parking space available near the appeal site. However, there is capacity to absorb some additional on-street parking within a short walk of the appeal site and the highway authority has raised concerns in relation to the safety of other highway users. I do not consider that a small increase in on-street parking would adversely affect the visual amenities of the wider area.

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<sup>2</sup> Ref: WA/2016/0017

15. Nevertheless, the layout in the vicinity of the site is poor and the immediately surrounding highway network does not provide any convenient alternative parking facilities. These factors do not persuade me that there is justification for departing from the Council's adopted standards in this case. I therefore conclude that the proposal would fail to provide adequate parking to enable the development to function effectively over its lifetime, contrary to saved Policy D4 of the Local Plan which, amongst other things, requires development to complement its surroundings and provide adequately for the parking of motor vehicles. It would also fail to accord with the Council's Parking Guidelines and paragraph 58 of the Framework. However, I am satisfied that there would not be a material conflict with saved Policy D1, which seeks to limit the environmental impacts of development proposals.

### **Other Matter**

#### *Thames Basin Heaths SPA*

16. The appeal site lies within the zone of influence of the Thames Basin Heaths Special Protection Area (SPA). I therefore have a statutory duty to consider the effect of the proposal on this area. The SPA is protected as a European Site of Nature Conservation Importance and is subject to statutory protection under the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations). Regulation 61(5) imposes a duty on local planning authorities as the competent authority, to consider whether any proposal may have a significant effect on such a protected area either alone, or in combination with other plans and projects. In order to mitigate the likely harm to the protected habitats from development within the Borough, the Council has adopted the Waverley Borough Council Thames Basins Heaths Special Protection Area Avoidance Strategy.
17. This strategy requires the development to make a financial contribution of £3,522.30 towards the maintenance, improvement and operation of a Suitable Alternative Natural Greenspace, which in this case has been identified as Farnham Park. The officer's report indicated that a S106 agreement had been completed and signed to secure the appropriate contribution towards the necessary mitigation measures. A copy of this agreement has been provided and I am satisfied that the contribution would not constitute funding or provision of infrastructure. It therefore meets the appropriate tests set out in the Community Infrastructure Levy (CIL) Regulations and I have taken it into account in reaching my decision. Consequently, I am content that the proposal either alone or in combination with other plans and projects, would not result in significant harm to the SPA.

### **Planning Balance and Conclusions**

18. The Government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. Whilst I note that there are differences of view between the parties as to whether or not the Council has a five year supply of deliverable housing sites, a single dwelling would make only a marginal contribution to the district's supply of housing and is therefore a matter that carries little weight in the overall balance. In any event, the appeal site lies within the development boundary of Farnham and there is therefore no objection in principle to a residential development.

19. The proposal would be a well-proportioned dwelling incorporating materials and features that would be in keeping with the Surrey vernacular. It would provide an acceptable standard of internal accommodation and external amenity space and would not be harmful to the living conditions of occupants of surrounding properties. However, these positive aspects of the scheme would be outweighed by the harm to the protected oak tree (T7) and the lack of adequate on-site parking provision.
20. For these reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR