
Appeal Decision

Site visit made on 14 March 2017

by Alex Hutson MATP CMLI MArborA

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

Decision date: 5 April 2017

Appeal Ref: APP/N1730/W/16/3165241

3 Lower Common, Eversley, Hook RG27 0QT

- 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 Ms K Sheffield against the decision of Hart District Council.
 - The application Ref 16/01234/FUL, dated 9 May 2016, was refused by notice dated 7 July 2016.
 - The development proposed is construction of a single detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area; the effect of the proposal on the Thames Basin Heaths Special Protection Area (TBHSPA); and whether adequate parking provision would be provided.

Reasons

Character and appearance

3. The appeal site comprises 3 Lower Common, a two storey, semi-detached dwelling, and its associated front, side and rear garden. There are a variety of dwelling types in the area. However, No 3 and its adjoining dwelling, No 4, form part of a distinct group of four pairs of semi-detached dwellings. Nos 3 and 4 along with Nos 5 and 6 are set behind Nos 1 and 2 and Nos 7 and 8 which front the main highway. Though there is some variety within the appearance of these pairs of semi-detached dwellings and some have been extended in the past, their consistent roof lines and hipped roof forms are a strong and defining feature of the group. This is noticeable in views from public vantage points along Lower Common. Though some single storey garage structures exist, including at No 3 and No 6, the group of dwellings tend to maintain a generous degree of spacing, including at first floor level, from their side boundaries. This provides a strong sense of space and openness which, in combination with the defining roof forms of these dwellings, contributes positively to the character and appearance of the area.
 4. The proposal would introduce a detached, two storey dwelling onto the appeal site. I acknowledge that it would reflect the height, fenestration detailing and
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materials of Nos 3 and 4 and would maintain a similar front building line to these dwellings.

5. Nevertheless, the detached nature of the proposed dwelling would appear at considerable odds with the semi-detached appearance of the group of dwellings as a whole. Moreover, it would introduce a noticeable break in the roof form with Nos 3 and 5 which would appear out of keeping with the consistent roof line of these dwellings and the group of semi-detached dwellings as a whole. In addition, the proposed dwelling would be set back from the side boundary of the appeal site by a modest 2 metres (m), according to the submitted plans. This would result in a cramped form of development which would erode the spatial qualities of the appeal site and area.
6. I have had regard to the planning history of the appeal site, including the consented terraced dwelling¹ which would adjoin No 3. However, this dwelling would be set back from the boundary by approximately 3m, according to the Council's evidence, and would therefore maintain a greater sense of space and openness than that of the proposed dwelling. Moreover, it would maintain a consistent roof line with Nos 3 and 4 and would therefore assimilate well into the prevailing pattern of development in the area. Thus, the consented terraced dwelling represents a different form of development to that proposed and does not justify a planning permission in this instance.
7. I note that the appellant suggests, with reference to appended plans (Appendix SOC2), that the consented terraced dwelling would be sited approximately 1.2m from the boundary. However, with the exception of the Location Plan, the reference numbers of the appended plans do not appear to correspond to the approved plans listed on the Council's Decision Notice for the consented terraced dwelling. As such, they are unlikely to represent the true fallback position. I am therefore more inclined to accept the Council's evidence on this matter.
8. In light of my reasoning above, I therefore conclude that the proposal would fail to respect the prevailing pattern of development in the area and would result in significant harm to the character and appearance of the area.
9. The proposal would therefore be contrary to saved Policies RUR20- Housing in Rural Settlements and GEN1- General Policy for Development, of the Hart District Local Plan (Replacement) 1996-2006 (Local Plan). These policies require, amongst other things, development to be in keeping with and not to harm local character. These policies are consistent with the broad aims and objectives of the National Planning Policy Framework which require planning to take account of the different roles and character of different areas.

TBHSPA

10. The appeal site lies within 5km of the TBHSPA, which is an internationally designated site of nature conservation importance. The Habitats Regulations² require that new developments do not adversely impact on the integrity of the TBHSPA, which in this case seeks to protect a number of important bird species and their habitats. The proposal has the potential to increase harmful recreational visits to the TBHSPA.

¹ Approved under Ref 15/03096/FUL

² The Conservation of Habitats and Species Regulations 2010

11. Saved Policies CON1- European Designations and CON2- National Designations, of the Local Plan, seek to restrict development that would adversely impact on national or international ecological designations. Saved Policy NRM6- Thames Basin Heaths Special Protection Area, of the South East Plan 2009 (SEP), requires adequate measures to avoid or mitigate any potential adverse effects on the Thames Basin Special Protection Area (SPA).
12. The Council has adopted the Interim Avoidance Strategy for the Thames Basin Heaths Special Protection Area. This sets out mitigation measures in the form of financial contributions towards Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM). It aims to ensure that the recreational pressure from additional development, both individually and cumulatively, would not have any likely significant effect on the special interest features of the TBHSPA.
13. The Council maintains that there is no scope for entering into a legal obligation to mitigate the effect of the proposal on the TBHSPA by seeking contributions to provide SANG. This is given that the capacity on Council owned sites, including Hitches Lane SANG and Hawley Meadows SANG, has either been used or is committed. In addition, the Council has indicated that it has received more than 5 planning obligations for each of the SANGs available. It would therefore be unlawful to take into account a further obligation under section 106 of the Town and Country Planning Act 1990 (the Act) relating to the same infrastructure, given the pooling restriction imposed by Regulation 123 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations). In any case, no completed planning obligation under Section 106 of the Act has been provided.
14. The appellant has provided a completed Habitats Regulations Mitigation Contribution (HRMC) form, under Section 111 of the Local Government Act 1972. This falls outside of the pooling restrictions of the CIL Regulations. The HRMC form and correspondence from the Council demonstrate that a SANG payment of £6645 and a SAMM payment of £668 have been made towards mitigation of the effect of development on the TBHSPA. However, these payments relate specifically to the extant planning consent on the appeal site. Moreover, I note that the payments could be refunded were the extant planning consent to expire prior to implementation. Furthermore, I have not been provided with any effective legal mechanism to enable the transfer of these payments to the proposal under consideration in this appeal were I minded to allow it for other reasons. As such, I do not consider that these payments adequately secure the necessary mitigation.
15. The appellant suggests that a Grampian condition could also secure any mitigation. However, the Planning Practice Guidance (PPG) indicates that a negatively worded planning condition requiring a planning obligation or other agreement should be entered into only in exceptional circumstances and may be appropriate in the case of more complex and strategically important development. The proposal is not a complex and strategically important development and therefore the exceptional circumstances which would justify the imposition of a Grampian condition do not exist. This is notwithstanding that the Council imposed such a condition on the extant planning consent mentioned above.

16. Accordingly, in the absence of an appropriate mechanism being proposed to secure adequate mitigation of the effect of the proposal on the TBHSPA, I conclude that the proposal would harm the TBHSPA and conflict with the relevant saved policies of the Local Plan and the SEP.

Parking provision

17. There does not appear to be any dispute between the main parties that the number of parking spaces proposed would be sufficient to serve the occupiers of the proposed dwelling and No 3. The Council's main area of concern appears to be that it considers the submitted plans to be inaccurate and, as a result, parking space No 6 would partially block the entrance into the driveway. Nevertheless, the Council's Highway Department acknowledges that this concern could be overcome by either amending the layout of the driveway or by altering the position of the gate.
18. Thus, it seems to me that had I been minded to allow the appeal for other reasons, such details could reasonably have been secured by a suitably worded planning condition. On this basis, I am satisfied that the proposal would comply with saved Policy GEN 1, of the Local Plan, which requires, amongst other things, development to have adequate arrangements on site for access or the parking of vehicles.

Other matters

19. The appellant sets out that the proposal would provide a high quality home within a sustainable location and would make better use of the land. Nevertheless, these benefits would not outweigh the harm I have identified. In addition, they could be delivered by the consented terraced dwelling.

Conclusion

20. For the reasons set out above and having regard to all other matters, including construction vehicle damage to roads, highway safety, flood risk and damage to underground services, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR