
Appeal Decision

Hearing held on 14 March 2017

Site visit made on 15 March 2017

by R J Marshall LLB DipTP MRTPI

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

Decision date: 27 April 2017

Appeal Ref: APP/R3650/W/16/3153356

**Land at junction of Frensham Heights Road and Summerfield Lane,
Rowledge, GU10 3AN**

- 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 and Mrs P Larkham against the decision of Waverley Borough Council.
 - The application Ref WA/2016/0633, dated 23 March 2016, was refused by notice dated 27 May 2016.
 - The development proposed is erection of a dwelling together with associated works using existing access at land at junction of Summerfield Lane and Frensham Heights Road.
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Decision

1. The appeal is dismissed.

Background

2. The appeal site is in the countryside outside any settlement boundary including that of the town of Farnham. It has a complex fairly recent planning history which includes the refusal of planning permission for various changes of use and for the erection of a conventional dwelling.

Main Issues

3. The main issues in this appeal are: **first**, whether the proposed development complies with local and national Policies on the location of development in the countryside and its effect on the character and appearance of the surrounding area; and **second**, other matters and the overall planning balance including implications arising from the absence of a 5 year housing land supply.

Reasons

Whether the proposed development complies with local and national Policies on the location of development in the countryside

4. Policy C2 of the Waverley Borough Local Plan 2002 (LP) seeks to protect the countryside for its own sake and says building in the open countryside away from existing settlements will be strictly controlled. Explanatory text to the Policy sets out the development that may be acceptable within the countryside, and by implication development not referred to would be unacceptable. The National Planning Policy Framework (the Framework) at paragraph 55 sets out

a not dissimilar approach to development in the countryside. It says that new isolated homes in the countryside should be avoided unless certain specified special circumstances apply.

5. There is a dispute between the parties as to whether the proposed development would comprise an isolated home in the countryside. The nearest settlement to the site is the fairly substantial settlement of Rowledge to the north-west and to the south-east is the much smaller village of Shortfield Common. From what I saw the site is sufficiently distant from both of these settlements to have no physical or visual relationship to them. The undulating and well wooded characteristics of the area add greatly to that impression.
6. Rowledge provides a reasonably comprehensive range of services. However, given its distance from the appeal site, and that access to the village would be largely along unlit rural roads with no pavements, it is unlikely that those on the appeal site would travel to Rowledge other than by private car. A limited range of facilities is provided in Shortfield Common. However, they are notably limited in range and access to them on foot would be on an unmade and unlit path through woodland. Attractive though this route is it is unlikely that it would be frequently used to access facilities.
7. With the appeal site visually, physically and functionally poorly related to settlements it may justifiably be considered an isolated house in the countryside. The fact that to the north of the site, albeit not clearly seen from it, is a large public school with an attached theatre does not alter my view on this. I accept that if the proposal was for a barn conversion under General Permitted Development Order (GPDO) rights regard should not be had to the sustainability of the sites location. However, on an application for the erection of a new dwelling this remains, amongst other matters, a valid consideration.
8. Given the sites location consideration must be given as to whether the proposed development falls within one of the types of development that are acceptable in the countryside under the provisions of LP Policy C2 and paragraph 55 of the Framework. Correctly it is not alleged that the proposal falls within any of the exceptions in Policy C2. However, it is the appellants' case that the proposed development would comply with the fourth bullet point of paragraph 55. Amongst other things this allows, as a special circumstance, a dwelling of exceptional quality or innovative design in the countryside. Given the age of the Local Plan I attach greater weight to paragraph 55 of the Framework than LP Policy C2.
9. For development to accord with the fourth bullet point of paragraph 55 it should: be truly outstanding or innovative, help to raise standards of design more generally in rural areas; reflect the highest standards in architecture; significantly enhance its immediate setting; and be sensitive to the defining characteristics of the local area. The proposal is assessed below against these requirements.
10. I turn first to the design of the proposal in term of its appearance. The proposal differs from the previous scheme for a house by being for an earth sheltered eco dwelling. It would be set into the ground and make good use of the contours of the site which rise up from a pond on its southern boundary. The dwelling would look out onto the pond. It is, in terms of the design of the building, an attractive and elegant solution to the provision of a house on this plot. There would be good provision of light and natural ventilation. However,

many good designs for houses, making good use of the features of a site, can be put forward. Paragraph 55 of the Framework sets out an exception to the usual restrictive approach to housing in the countryside and rightly sets a high bar to be met. Good though the proposed house is in architectural terms it would not be of an exceptional quality in terms of its outward design.

11. Turning to the energy efficiency of the design, which the appellant regards as being particularly innovative, there are inherent advantages in an earth sheltered dwelling in terms of insulation. The proposed development would build upon that in terms of its construction. It is proposed that additional benefits would be achieved by a particularly well insulated form of construction which would enable the passive solar heat gains generated inside the building to be absorbed by the high thermal mass of the concrete walls and floor during the day and radiated back into the house in the evenings as the building cools down. In addition it is proposed to use cement free concrete in the construction of the building which it is claimed is far more eco-friendly than using traditional cement-based concrete.
12. Adding to the energy efficiency of the building would be the fact that it would incorporate many renewable technologies to create, it is said, a zero carbon and carbon negative home. These would include: PV panels designed to avoid glare and reflection; PV floor panels built into terraced paving and into the centreline of the driveway; a domestic battery system to store surplus PV energy; a water source heat pump using an energy blade system as opposed to more traditional pipes; and the use of surplus electric car energy to top-up batteries along with hybrid/electrical charging integration.
13. The Council's sustainability Officer considers the proposal demonstrates excellence in terms of sustainable energy design and energy efficiency. However earth sheltered dwellings, although relatively rare and possibly not found in this District, are no longer a new and novel means of providing houses. Moreover, modern technologies are increasingly finding favour in the construction of new dwellings. Thus I do not find the concept as a whole to be so sufficiently innovative as to comply with paragraph 55 of the Framework.
14. Paragraph 55 of the Framework also requires that the proposed dwelling should significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. The site is located within an area defined by the Council as an Area of Great Landscape Value (AGLV). LP Policy C3 says that in this area strong protection will be given to ensure the conservation and enhancement of landscape character. A proposal is being considered to extend the boundary of the Surrey Hills Area of Outstanding Natural Beauty (AONB) to incorporate land including the appeal site. However, for the time being the policy relevant to the site is that applicable to the AGLV.
15. The appeal site is a small, roughly triangular shaped, parcel of land. It is bound on two sides by narrow country lanes, Summerfield Lane and Frensham Heights Road and on the other side by a public right of way. The site lies just below a steep escarpment to the north and slopes steeply down to the south. It has an attractively undulating appearance and has trees and hedgerows on its boundaries. The hedgerows are of a species out of character with the area, some limited hardstanding has been formed on the site and there are some small quantities of what might be illegally tipped material. However, these characteristics do not substantially undermine the attractiveness of the site.

16. There is a fairly substantial development associated with the private school some way to the north of the site and separated from it by open fields. Glimpses of this development can be seen from the vicinity of the site and it stands out in some views from further afield. However, the site's location at the bottom of the escarpment means that it relates far more closely to the largely undeveloped countryside in its immediate vicinity and to the south. This has a most attractive verdant and sylvan character. Given the wooded character of much of the area houses some way to the north-east of the site along Summerfield Lane are not seen from the appeal site and do not impinge upon the undeveloped rural character of its surroundings.
17. Although the proposed dwelling is of an attractive design in its own right, and views of it would be limited as the proposed new hedges became established, it would result in a dilution of the undeveloped rural character and appearance of the area. Moreover, the residential use of the land would also be likely to have an undesirable effect in this regard. Although a reasonably sized integral garage could be provided it would not be possible to prevent cars parking on the turning area forward of it or on the driveway. In addition the creation of a garden would be likely to result in a more manicured appearance to the site. The appellant is proposing that fairly limited areas, in part well screened, should comprise those used for domestic activities and that a condition be imposed accordingly. However, I consider it unrealistic and unreasonable to limit the use of the site in this way and prevent, for example, the placement of garden furniture etc. on garden land beyond that identified for domestic activities. Planting of hedges of a more appropriate species would be a benefit, but would be insufficient to outweigh the harm identified above.
18. It is concluded that the proposed development would not comply with local and national Policies on the location of development in the countryside and would detract from the character and appearance of the surrounding area. There would be conflict with LP Policies C2 and C3 and paragraph 55 of the Framework.
19. In arriving at this conclusion I have had regard to appeal decision APP/R3650/W/15/3008821 in which it was found that a site outside the settlement boundary for Farnham would be a sustainable location and acceptable on character and appearance grounds. However, this was for a scale of development notably different from the proposal before me, was reasonably close to the built up area of Farnham and the site and surrounding area had different visual characteristics. This decision offers little guidance on the approach to be taken on the current appeal.

Other matters and planning balance

Other matters raised for the proposal

20. The Council's initial stance, contrary to the view of the appellant, was that it had a 5 year housing land supply. It now concedes that in light of a recent appeal decision, APP/R3650/W/16/3150558, that this is not the case. Here the inspector found the Council to have a housing land supply of somewhere between 4.08 – 4.27 years. The lack of a 5 year housing land supply is a material consideration in favour of the proposal.
21. The proposed development would bring some economic benefits in terms, for example, of: employment during building works; expenditure on fittings and

furniture and on-going maintenance; payment of Council tax and the potential for a new homes bonus. There would also be some fairly substantial ecological enhancements as set out in a detailed ecological report.

Planning balance

22. In the absence of a 5 year housing land supply relevant policies for supply of housing should not be considered up-to-date according to paragraph 49 of the Framework. Where policies are out of date, as in this case, paragraph 14 establishes that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
23. In this case there would be a benefit in providing new housing where there is an absence of a 5 year housing land supply. There would also be the economic benefits referred to above. However, the weight to attach to these social and economic benefits is limited by the fact that the proposal is for only one dwelling and this would have little effect on increasing significantly the supply of housing. The scale of the proposed ecological enhancements means that a moderate degree of weight should be attached to them.
24. Set against the limited and moderate benefits referred to above would be harm arising from the conflict with the development plan and national policies on the location of development and the harm to the AGLV. I attach substantial weight to the conflict with policy on the location of development for it though these policies that the countryside is protected and sustainable patterns of development ensured. I attach considerable weight to the harm to the character and appearance of the surrounding area. I find that taken overall, the harm I have identified is of a degree that would significantly and demonstrably outweigh the benefits of the proposal when assessed against the Policies in the Framework taken as a whole.
25. The Framework says that housing applications shall be considered in the context of the presumption in favour of sustainable development. It identifies 3 dimensions to such development, an economic role, a social role and an environmental role. From my findings above it is clear that in some respects those roles would be met by the proposed development and that in part of there would be compliance with the Framework. However, the harm identified means that there would be conflict with the social and environmental roles to a degree which means that, seen in the round, the proposal would not be sustainable development and would be contrary to the development plan when read as a whole.

Conclusion

26. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr I Coward MRTPI
Mr L Brooks BWP RIBA
Mr P Larkham
Mr D Johnson

Of Collins Coward.Co.Uk
Of BWP Architects
Appellant
Of Mesh Energy.Com

FOR THE COUNCIL

Miss K Taylor BSc MSc
Mrs L Yandell MRTPI
Mr M Ellis MA

Planning Officers
Area Team Leader
Principal Policy Planner

INTERESTED PERSONS

Mr C Hall
Mr G Precious
Mr M Brown

CPRE
Rowledge Residents Association
Local resident

DOCUMENTS

1. Letter of notification of appeal and those notified.
2. Application drawing No. 15/175/01.
3. Farnham Neighbourhood Plan Regulation 15 July 2016.
4. Report on Farnham Neighbourhood Development Plan 2013-2031 (Feb. 2017)
5. Enlarged map from above plan.
6. Waverley Borough Pre-Submission Local Plan Pat 1 Strategic Policies and Sites. (2016).
7. 5 year housing land supply figures.
8. Plans relating to application WA/2009/1067
9. Plans relating to application WA/2011/0967
10. Footpaths map.
11. E mail to Mr Holland from Surrey Hills AONB officer.
12. 2 sheets of conditions from Council.
13. Appellant's suggested condition.