

Appeal Decision

Site visit made on 20 March 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 3rd May 2017

Appeal Ref: APP/R3650/W/16/3161194

34 Three Stiles Road, Farnham, Surrey, GU9 7DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs R Green against Waverley Borough Council.
 - The application Ref WA/2016/1528, is dated 26 July 2016.
 - The development proposed is the erection of a dwelling and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling and associated works at 34 Three Stiles Road, Farnham, Surrey, GU9 7DE in accordance with the terms of the application, Ref WA/2016/1528, dated 26 July 2016, subject to the conditions set out in the schedule to this decision letter.

Application for costs

2. An application for costs was made by Mr & Mrs R Green against Waverley Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal was submitted on 18 October 2016 on the basis of the Council's failure to determine the application within the prescribed period of a decision on an application for planning permission. The Council subsequently issued a decision notice on 28 October 2016, although given that the jurisdiction had transferred from the local planning authority to the Planning Inspectorate, I have dealt with this appeal on the basis of the failure to determine the application. Notwithstanding that, the issues raised by the Council in their subsequent decision notice form the basis of the disagreement between the parties.
 4. The Council's decision notice refers to a number of draft policies from the emerging Waverley Borough Local Plan Part 1: Strategic Policies and Sites. However, from the information before me, the examination of the emerging plan has yet to commence and policies within it could be subject to change. I can therefore afford only limited weight to these policies.
 5. The examiners' report for the Farnham Neighbourhood Plan (FNP) has now been received and the Plan is now proceeding to a referendum. As such, I give the policies contained within it significant weight.
-

National Planning Policy Background

6. The Council initially indicated that they had a five year housing land supply in their appeal statement, and included a weblink to their latest five year housing supply position statement dated 01 January 2017. However, when using this link, the webpage text supersedes that statement following an appeal decision for the Weyburn Works, Elstead. The Council now consider that they cannot demonstrate a five year housing supply. Given this, it follows that, in accordance with paragraph 49 of the National Planning Policy Framework (the Framework), the housing supply policies in the Waverley Borough Local Plan (2002) (LP) are out of date.
7. Consequently the fourth bullet point of paragraph 14 of the Framework comes into play. This makes it clear that where development plan policies are out of date planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Main Issue

8. The main issue is the effect of the development on the character and appearance of the area.

Reasons

9. The appeal site is located at the end of Three Stiles Road on its southern side beyond which is open fields. The site itself falls away from the road and is a largely open plot with hedgerows and open timber fencing to its boundaries. The overall appearance of the site more akin to a domestic garden rather than the countryside. There is also a public footpath to the rear of the site, which allows for limited views into the appeal site. This section of the south side of Three Stiles Road is characterised by bungalows set in large plots, whilst the northern side has two storey dwellings.
10. Policies C2 and C3 of the LP seek to strictly control building in the open countryside away from existing settlements. They also seek to protect and conserve the distinctiveness of the landscape character areas. As the site is located outside any defined settlement area, in planning policy terms, it is located in the countryside. It is also outside of the built up area boundary as shown on map A of the emerging FNP. Additionally, the site is located in an Area of Great Landscape Value (AGLV).
11. The site is however located adjacent to these settlement/built up area boundaries and there is no dispute between the main parties that the development would be in a sustainable location and would not be an isolated dwelling in the context of paragraph 55 of the Framework.
12. The Council acknowledge that given the overall character of the site, a small residential dwelling could be acceptable. Whilst the proposed dwelling would have a substantial footprint, it would also be sited within the general alignment of the existing dwellings along Three Stiles Road. There would also be a degree of spacing between each of the side boundaries. The overall height of the proposed dwelling would be similar to the adjoining property with the ridge height being shown as 54.7 AOD, compared to the ridge heights of the adjoining dwelling at 54.75 and 54.08 AOD. Whilst the proposed dwelling has some first floor accommodation, the ground floor level would be set into the

ground which would significantly reduce the overall visual impact of the dwelling.

13. Considering all of these factors, given the extent of the proposed development, and that it would result in the addition of a building in an area where no substantial structures exist, the development would erode the open undeveloped nature of the site. This would inevitably lead to some harm to the character and appearance of the area, although such harm is limited by the semi-rural nature of the site and the existing development. Nevertheless, some harm would result.
14. For the above reasons, I conclude that the dwelling would lead to harm to the character and appearance of the area, including the AGLV, contrary to the provisions of Policies C2, C3, D1 and D4 of the LP, Policies FNP1 and FNP10 of the emerging FNP and the Framework which seek, amongst other matters, to protect the character and appearance of the area.

Other matters

15. From the evidence before me the site lies within the 5km zone of influence for the Thames Basin Heaths Special Protection Area (TBHSPA). Policy D5 of the LP, together with the Waverley Borough Council Thames Basin Heaths Special Protection Area Avoidance Strategy, outlines that mitigation is required for new residential development within the 5km influence zone. The need for mitigation is not disputed by the Appellant.
16. With that in mind, a Unilateral Undertaking has been submitted which the Council considers provides for appropriate level of mitigation in accordance with the avoidance strategy and Policy D5 of the LP and I have no reason to disagree.
17. I have also had regard to the comments relating to the lack of turning facilities at the end of Three Stiles Road. However, this is an existing situation and the addition of one dwelling, even with its access point close to the end of the road would not make the current position materially worse.

Planning balance

18. The Council consider that the development is contrary to Policies C2, C3, D1 and D4 of the LP. A recent court judgement (Cheshire East Borough Council v SoS for CLG and Renew Land Developments Ltd) has made clear that relevant policies for the supply of housing as mentioned in paragraph 49 of the Framework include policies that influence the supply of housing by restricting the locations where they may be developed. From this I deduce that Policies C2, C3 and D1 are policies for the supply of housing, and that therefore it cannot be considered to be up to date. Limited weight can therefore be afforded to any conflict arising with it and the fourth bullet point of paragraph 14 of the Framework comes into force as detailed above.
19. I have found that the proposed development would give rise to some harm to the character and appearance of the area and would conflict with the LP, the emerging FNP and the Framework. This factor weighs against allowing the proposed development.

20. My attention has also been drawn to the recent appeal decisions¹ for land adjoining 29 Three Stiles Road which also considered very similar issues to this appeal. I give these decisions significant weight.
21. From the evidence before me, it is unclear what the current shortfall in the Council's five year housing land supply is. Notwithstanding this, the provision of one dwelling is unlikely to have any significant effect in reducing any deficit. Nevertheless, the provision of an additional dwelling is a benefit. In considering the economic and social aspects of sustainable development I acknowledge that the proposal would bring some minor benefits to the area.
22. Taking all of these factors into account, the adverse impact of the development does not significantly and demonstrably outweigh its benefit given the limited harm to the character and appearance of the area (owing to the semi-rural nature of the site and the overall design and height of the proposed dwelling). I therefore consider that the proposal is sustainable development when considering the Framework taken as a whole.

Conditions

23. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
24. Conditions relating to the external materials, finished ground levels and boundary treatment are appropriate in the interest of the character and appearance of the area. It is also necessary that the dormer window is glazed in obscure glass in the side elevation facing 34 Three Stiles Road to ensure that adequate privacy is maintained.
25. With the exception of the land levels it is not necessary for any of these to be pre-commencement conditions. It is necessary for the land levels to be agreed prior to any site works commencing as it involves matters which are required to be investigated prior to ground disturbance.

Conclusion

26. Taking all matters into consideration, whilst the development does not accord with the Policies in the LP, given my conclusion in relation to the sustainable nature of the development, and its compliance with the Framework when taken as a whole, the appeal should be allowed.

Chris Forrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

¹ APP/R3650/W/15/3121470 & APP/R3650/W/15/3136655

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans – MLP/01, 1891/05, 1891/06, 1891/07, 1891/08 and 1891/09.
- 3) Prior to the commencement of the construction of the external surfaces of the building a schedule and samples of the materials to be used in the external surfaces of the building hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until full details of the existing and proposed ground levels surrounding the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The dormer window at first floor level facing 34 Three Stiles Road shall be glazed in obscure glass to the extent that inter-visibility is excluded and the shall be retained as such for the life of the development.
- 6) Prior to the first occupation of the dwelling details of the position, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the first occupation of the dwelling.