
Appeal Decision

Site visit made on 16 May 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 9 June 2017

Appeal Ref: APP/Y3615/W/16/3158963

Lymhurst, Surrey Gardens, Effingham Junction, Leatherhead KT24 5HF

- 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 D Fernie against the decision of Guildford Borough Council.
 - The application Ref 16/P/01260, dated 5 May 2016, was refused by notice dated 9 August 2016.
 - The development proposed is the erection of 3 bedroom detached bungalow on land behind Lymhurst.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal process should not be used to evolve a scheme and a fresh planning application should normally be made. The combined Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement (AIA) was lodged with the appeal. Although the Council consider that the AIA should not be considered as part of the appeal, as it does not change the development proposed that was considered by the Council and residents, I have considered this appeal with regard to the AIA.

Main Issues

3. The main issues are: (i) the effect of the proposal on the character and appearance of the area, including the effect of the proposed removal of the protected Willow tree and the likely long-term effect on the protected Oak trees; and (ii) the impact of the development on the Thames Basin Heaths Special Protection Area (TBHSPA).

Reasons

4. The site is in the identified settlement area of East Horsley. It is on a washed over area of the Green Belt. The National Planning Policy Frameworks (the Framework) in paragraph 79 says the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
 5. The Framework explains that new buildings in the Green Belt are inappropriate unless they are one of the exceptions listed in paragraph 89. One of the exceptions, in this case, is the limited infilling in villages under saved Policy
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RE3 of the Guildford Borough Local Plan (Local Plan). Having regard to this policy, I agree with the Council that the proposal represents limited infilling and would therefore, if the proposal does not harm the character and appearance of the area, conform to saved Local Plan Policy RE3.

Character and appearance

6. The site is to the rear of the detached two storey dwelling of Lymhurst. Part of the site comprises of a lawn which forms part of the rear garden of Lymhurst, while the remaining part contains several mature trees and shrubs that contribute to a leafy character and appearance. The trees, a number of which are protected by a Tree Preservation Order (TPO), screen the Buren which is accessed using the track which extends along the site's flank boundary from Surrey Gardens. Locally, detached houses of varying sizes, styles and finishes set within spacious landscaped plots characterise the area.
7. Due to the site's position behind Lymhurst, the proposed dwelling would not heavily influence the street scene of Surrey Gardens. However the dwelling would be positioned between the access track and the hedge which extends along the site's south-western boundary. The proposal would be relatively tight to both boundaries. Added to this, to fit the proposal onto the site, the AIA confirms that T6 would be removed. This tree, a Weeping Willow is now the subject of a TPO. The AIA verifies my view that this tree is mature and in a good condition. Moreover the AIA categorises T6 into category B and to have 40 plus years of life left. This is a considerable period of time.
8. While the AIA suggests that T6 makes a medium landscape contribution, this is not a view that I share. This tree and the taller Common Oak trees (T9, T10, T11 and T12) are widely visible from different vantage points along Surrey Gardens. Collectively they significantly contribute to the character and appearance of Surrey Gardens by providing a leafy backdrop to the built form that lines the road, but also land to the rear, thereby maintaining the spacious, secluded suburban distinctiveness of the area.
9. I acknowledge the plot size is broadly comparable to others and that there are smaller sites nearby, including some that are positioned behind the properties that front the road. However the siting of the dwelling would result in the loss of T6 which makes an important visual contribution to the area. Saved Local Plan Policy NE5 sets out that *development will not be permitted if it would...destroy trees protected by a TPO...unless the removal would: be in the interests of good arboricultural practice; or the need for the development outweighs the amenity value of the protected trees*. Neither criterion is satisfied in my view in relation to T6.
10. I recognise soft landscaping could be planted, but as the appellant accepts, this along with hard landscaping would be important to the scheme's integration into the area. I am not satisfied that new planting would mitigate for the harm that would be created by the loss of T6 and the introduction of built form that would not reflect the spacious pattern of development. Thus, I do not consider that the proposal responds to its context, even if compatible materials were used and as a result, the development in its current form would not respect the spacious verdant character of the area.
11. In terms of the four Common Oak trees, the AIA shows their canopies would not necessarily result in shading in the two nearest bedrooms. So, despite

their large size, the proposal would not directly result in pressure to prune or remove these trees in the future. Nonetheless, the Council has the ability to consider any pruning or felling application on its own merits in the future, given that these trees are subject of a TPO.

12. For these reasons, I conclude on this issue that the proposal would result in significant harm to the character and appearance of the area, especially through the proposed removal of the protected Willow tree (T6). The proposal would not accord with saved Local Plan Policies G1, G5, NE5 and RE3; which together, among other things, seek development to be designed to safeguard and enhance the local characteristic landscape and existing natural features on the site, such as protected trees and value existing spaces so that development does not harm the character and appearance of the area.

Special protection area

13. The site is within the 400m-5km buffer zone of the TBHSPA. As a result, the proposal, in combination with other development, would have the potential to result in significant impacts upon the TBHSPA through increased dog walking and general recreational use. Thus a precautionary approach is warranted as it is unclear that residential developments within the buffer zone would not have a significant effect on the TBHSPA. In such circumstances, an appropriate assessment is needed that considers the effect of the development individually or in combination with other development on the TBHSPA's conservation objectives. No such assessment has been provided by the appellant.
14. I note the appellant's point that a s106 planning obligation was not sought by the Council. Still, the remit of this was set out in the Council's Officer Report in accordance with the Council's adopted TBHSPA Avoidance Strategy 2009-2016 (Avoidance Strategy). This requires a Suitable Accessible Natural Greenspace (SANG) contribution towards the cost of upgrading and maintaining an existing SANGs and an Access Management and Monitoring Contribution to provide for access management of the Special Protection Area. Notably, the appellant does not dispute the need for the contributions in accordance with the terms of the Avoidance Strategy. However there is no s106 planning obligation before me and as such there are no mitigation contributions.
15. On this basis, I conclude on this issue that the development would be likely to have a significant harmful impact on the TBHSPA. This would be contrary to saved Local Plan Policies NE1 and NE4, saved Policy NRM6 of the South East Plan-Regional Spatial Strategy for the South East, the Avoidance Strategy and the Conservation of Habitats and Species Regulations 2010. Collectively, these seek to prevent harm to protected species and habitats so that development does not adversely affect European sites and species.

Conclusion

16. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR