
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: 22nd June 2017

Appeal Ref: APP/R3650/W/16/3161505

31A Shortheath Road, Farnham, Surrey GU9 8SN

- 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 Shortheath Farnham Limited against the decision of Waverley Borough Council.
 - The application Ref WA/2016/1139, dated 3 June 2016, was refused by notice dated 29 September 2016.
 - The development proposed is the erection of two detached dwellings with associated parking and landscaping following demolition of the existing dwelling and outbuilding.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on :
 - (i) the Thames Basin Heaths Special Protection Area;
 - (ii) the character and appearance of the area; and on
 - (iii) highway safety.

Reasons

Special Protection Area

3. 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 Waverley Borough Local Plan 2002 (LP), Policy NRM6 of the South East Plan (2009), together with the Waverley Borough Council Thames Basin Heaths Special Protection Area Avoidance Strategy Review 2016, outlines that mitigation is required for new residential development within the 5km influence zone. The need for mitigation is not disputed by the Appellant.
 4. With that in mind, the Appellant has submitted two Unilateral Undertakings. The first undertaking, dated 16 March 2017, does not relate to mitigation measures required for the TBHSPA. I therefore give it no weight in the consideration of this issue.
 5. The second Undertaking, dated 8 May 2017, details mitigation for the TBHSPA and includes provision for a Natural England Fee of £752 and an SPA contribution of £3,261.30 towards the maintenance, improvement and operation of the SANG (Suitable Alternative Natural Greenspace).
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6. However, the Council have identified that the Undertaking does not reflect the required level of mitigation (a SANG total of £6,064 and a SAMM (Strategic Access Management and Monitoring) total of £1,814).
7. The Appellant has also indicated that should the submitted Undertaking not be sufficient then consideration should be given to the imposition of a negatively worded planning condition to secure appropriate mitigation for the TBHSPA.
8. The Government's Planning Practice Guidance (the PPG) advises that 'A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed' (Paragraph: 010 Reference ID: 21a-010-20140306).
9. The PPG also goes on to note that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence 'may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk'. However, I am not of the view that the scheme represents such development. Consequently, I consider that it is not appropriate in this case to secure the requirement for the Appellant to enter into a Section 106 agreement by a planning condition.
10. Given the above, and in accordance with paragraph 118 of the Framework, I am obliged to take a precautionary approach. Consequently, in the absence of a suitable planning obligation, or any other bespoke mitigation scheme, the appeal development would (in combination with other development) be likely to have a significant adverse effect on the TBHSPA contrary to the EU Habitats Directive, Policy D5 of the LP and Policy NRM6 of the South East Plan (2009).

Character and appearance

11. The appeal site is located on the south-east side of Shortheath Road and is accessed via Brockhurst Lodge. The site is well screened from Shortheath Road by a tall hedgerow. There is a range of differing styles and sizes of property in the area which together with the tree coverage provides an interesting and attractive environment. The site currently contains a detached bungalow and garage. The land slopes downwards away from Shortheath Road towards the development on Brockhurst Lodge.
12. The residential properties in the vicinity of the site are generally set in large plots although there are exceptions to this, notably on St Thomas Close. In respect of the width of the plots, I saw that there are several other properties in the area, particularly on the north side of Shortheath Road and other nearby roads, which are of a similar width to the proposed development.
13. The proposal would result in an increase in built form over and above the existing development both in terms of its footprint, and its overall scale and massing. Notwithstanding that, the overall design and massing of the new dwellings (being a mixture of one and half and two storey buildings in scale) would not result in a development which would be harmful to the overall character and appearance of the area.

14. The Council have raised concern over the amount of amenity space and that this would be reduced by the need for parking spaces to the fore. In the absence of any specific guidance from the Council, from the evidence before me, I consider that the size of the rear gardens for both proposed dwellings would be sufficient to meet the reasonable expectations of the occupiers of these properties. That is to say the spaces would be of a size to allow occupiers to carry out all the domestic activities one would normally expect for the size of the dwellings.
15. Turning to the front aspect, this would not normally be classed as being private amenity space. However, there would still be a significant amount of screening to the Shortheath Road frontage. Notwithstanding that, I consider that this area does not need to be private as such to ensure that sufficient private amenity space is provided for the future occupants. Consequently, its use for parking provision does not have any impact on the amount of private amenity space. Furthermore, it is usual for properties to have parking provision to the fore or side of a dwelling and as such the appeal development is not unusual in this respect nor would it be out of character with other dwellings in the vicinity of the site.
16. I have also had regard to the effect of the development on the trees in the area, including those protected by a Tree Preservation Order within the curtilage of 1 Cedarways. The most significant tree has been identified as a Sweet Chestnut and is also the subject of a Tree Preservation Order (No 26/00).
17. The development would encroach into the root protection area (RPA) of this tree. However, the extent of the encroachment is limited to a relatively small amount of the whole RPA. I also note that the Council's Tree and Landscape Officer does not raise any objection to this subject to suitable planning conditions. From what I observed on site, I have no reason to disagree with that view.
18. For the above reasons, the development would not give rise to harm to the character and appearance of the area and would accord with Policies D1 and D4 of the LP, Policy TD1 of the Pre-submission Local Plan Part 1 : Strategic Policies and Sites August 2016 (the emerging LP), Policy FNP1 of the Farnham Neighbourhood Plan (FNP) and the Farnham Design Statement (FDS) which amongst other things seek to protect the character and appearance of the area. The proposal would also accord with the overall aims and objectives of the National Planning Policy Framework (the Framework).

Highway safety

19. The proposed development would be accessed via the existing driveway onto Brockhurst Lodge which from the information before me is an unadopted highway. Brockhurst Lodge at this point is essentially a single carriageway highway and the access point to the site is close to the junction with Shortheath Road.
20. The internal layout of the site would allow for vehicles to enter and exit the site in a forward gear when turning within the parking space areas. Consequently, I consider it unlikely that vehicles would have to reverse in or out of the site from Brockhurst Lodge.

21. Given the limited additional traffic that the development would generate I consider that the proposal would not give rise to an unacceptable level of danger to users of the highway, including pedestrians, in principle.
22. However, from my site visit I noted that the existing hedgerow severely restricted visibility at the access point on Brockhurst Lodge to the extent that very little forward visibility existed. To my mind, without any mitigation, any intensification of the use of the access would lead to an unacceptable increase in highway danger to pedestrians and vehicles on Brockhurst Lodge.
23. Notwithstanding that, consideration needs to be given as to whether this harm could be remedied by means of a planning condition. In this case, I am satisfied that the removal of a section of hedgerow to provide for a suitable visibility splay would provide adequate visibility. I am also satisfied that the removal of this section of hedgerow would not give rise to a material harm to the character and appearance of the area subject to its replacement with a wall (similar to that on the other side of the access point) or new hedgerow set further back in the site.
24. For the above reasons the development would not give rise to any material harm to highway safety that could not be mitigated through a planning condition. Therefore the proposal would accord with Policies D1 and D4 of the LP, Policy TD1 of the emerging LP, Policy FNP1 of the FNP and the FDS which amongst other things seek to ensure that development does not have an adverse effect on highway safety. The proposal would also accord with the similar aims and objectives of the Framework.

Conclusion

25. Taking all matters into consideration I conclude that the appeal must be dismissed.

Chris Forrett

INSPECTOR