
Appeal Decision

Site visit made on 3 July 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 20 July 2017

Appeal Ref: APP/D3640/W/16/3158307

Sylvan Craig, Springfield Road, Camberley GU15 1AE

- 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 J Barlow against the decision of Surrey Heath Borough Council.
 - The application Ref 16/0371, dated 4 April 2016, was refused by notice dated 1 September 2016.
 - The development proposed is demolition of existing garage and erection of a detached 4 bedroom property.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The appellant in his grounds of appeal refers to a subsequent approval on the appeal site. However, I have not been provided with any details of that and I have considered the appeal proposal on its own merits.

Main Issues

3. The main issues are the effect on:
 - the character and appearance of the area; and
 - protected species and habitats.

Reasons

Character and appearance

4. Sylvan Craig is located in an area of very low density detached housing close to Camberley Heath Golf Course. The area is well treed and also has many large shrubs giving the area a verdant feel. The Council, in its Western Urban Area Character Supplementary Planning Document (the SPD), has noted that this area, the Wooded Hills Character Area (the WHCA), is characterised by hilly areas, large irregular plots, winding roads/lanes, heavy vegetation and a scattering of Victorian/Edwardian buildings. This area is noted as having a semi-rural residential character, despite its proximity to Camberley town centre. I agree with this assessment.

5. Sylvan Craig is one of two properties serviced from an access drive located at a higher level behind the properties facing Springfield Road. There are a number of cul-de-sacs off Springfield Road and, although development in the form of this pair of dwellings is unusual, development in depth back from Springfield Road is not.
6. Sylvan Craig is a bungalow with an extensive footprint. The main garden area is to the southeast, although it has a semi-enclosed courtyard to the southwest. The main garden area undulates significantly with the ground levels dropping away and then rising again at the 'far end' of the garden. There are trees and other vegetation around the perimeter of the site, with a number of specimen trees within the garden area.
7. The proposal is to construct a detached dwelling on part of the lower level of the garden. The existing garage for Sylvan Craig would be demolished providing an access through to two parking areas, one for the new dwelling and one for Sylvan Craig. The latter parking area would be located on the existing patio area for that property to its southeast.
8. As noted above the properties in the WHCA are generally within large irregular plots. To this end the appeal property would fit well within this area being well spaced from other properties. In addition, as has been demonstrated in the Arboricultural Report submitted with the application, and agreed by the Council, it would not give rise to significant tree loss¹. I have no reason to dispute the conclusions of the Arboricultural Report.
9. The Council has raised concern about the design of the proposed dwelling describing it as contrived. It would be an uncompromisingly modern design made up of two linked sections. With the exception of the roofing material (zinc), the materials for the building are undefined, but I am satisfied that, subject to an appropriate condition, this building could fit well into the area.
10. The layout of rooms and windows has been designed to ensure that there is no material overlooking leading to any material loss of privacy for the occupiers of neighbouring properties. I do not consider the design to be contrived; rather it has been designed to fit within the constraints of the site. As the National Planning Policy Framework (the Framework) makes clear in paragraph 58, designs should respond to local character, reflecting the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. In addition, Guiding Principle WH6 of the WHCA makes clear high quality contemporary designs will be welcome where it respects its surroundings.
11. However, Sylvan Craig itself would be left with a very small site consisting in the most part of hardsurfacing (the existing courtyard and the proposed parking area), although there would be some trees and shrubs along the existing boundaries. This would be significantly out of keeping with the spacious and verdant character of the area and appear cramped within its new site. It would have a higher plot ratio than the surrounding area as a function

¹ This report indicates that it is proposed to remove six trees. These have been categorised in accordance with British Standard BS 5837:2012 *Trees in relation to design, demolition and construction – Recommendations* as five small Category C1 trees (unremarkable trees of limited merit and low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150mm), and one Category U tree (trees in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years).

of the extensive footprint and comparatively small site, creating a significantly more urban feel than the prevailing semi-rural character. The development would mean that Sylvan Craig would not sit within a spacious plot. As Guiding Principle WH2 of the WHCA makes clear development forms that are contrary to the prevailing development form of detached houses set in generous individual enclosed plots with large side gardens and plot ratios above 0.5:1 are considered to be out of keeping with the soft enclosed, semi-rural character and will be resisted. This cramped nature would be harmfully out of keeping with the existing character and appearance of the area.

12. As such the proposal would be harmful to the character and appearance of the area. It would therefore be contrary to Policies CP2 and DM9 of the Surrey Heath Core Strategy and Development Management Policies Document 2012 (the CSDMPD) which require that all land is used efficiently within the context of its surroundings and respects and enhances the quality of the urban environment paying particular regard to, *inter alia*, density. It would also be contrary to Guiding Principles WH1, WH2 and WH3 of the WHCA in the SPD as set out above, and which indicates that development that erodes the soft green semi-rural character of the area will be resisted. It would also be contrary to paragraph 58 of the Framework as set out above.

Protected species and habitats

13. The application was accompanied by a Protected Species Walkover Survey (the Survey). This found that there was negligible potential for bats in the existing garage and that none of the trees on site had potential to support roosting bats, although lighting may result in indirect effect on foraging and commuting. It indicated some potential for UK BAP² priority species such as the west European hedgehog, recommending a precautionary approach to habitat clearance. It also looked at the potential for Great Crested Newts, the effect of development on birds and on reptiles and did not find any reason why permission should be withheld on these grounds. There was agreement from the Council in respect of all these matters.
14. However, the Survey did not look at ecology designations outside the appeal site which may be affected by the proposal. In particular there was no reference to the nearby golf course which is a Site of Nature Conservation Importance (SNCI). The Surrey Wildlife Trust indicates that badgers could be present on the SNCI and, contrary to the assertion of the appellant in his appeal statement, there is no consideration within the Survey of the potential effect of the development on badgers.
15. Paragraph 99 of the ODPM Circular 06/2005³ states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision." Badgers are a protected species and I simply do not have sufficient information to allow me to determine whether they would be affected by the proposal.

² Biodiversity Action Plan

³ Biodiversity and geological conservation - statutory obligations and their impact within the planning system

16. The site also lies within 5 km of the Thames Basin Heaths Special Protection Area (the SPA) which is designated under the Habitats Directive for its populations of woodlark, nightjar and the Dartford Warbler. In line with the Habitats Directive and the Conservation of Habitats and Species Regulations 2010 (as amended) (the Habitats Regulations) planning permission is to be refused if development, either on its own or in combination with other plans or projects, would have a significant adverse effect on the SPA. The additional resident human population associated with the development proposed has been shown through research to be likely to recreate on the SPA leading to such significant harm.
17. To provide mitigation for developments potentially having such an effect the Council has published a Thames Basin Heaths Special Protection Area Avoidance Strategy SPD which was adopted in 2012. The Council indicates that this sets out a strategy of providing additional greenspace to provide an alternative location for recreation (Suitable Alternative Natural Greenspace or SANG) and access management (Strategic Access Management and Monitoring or SAMM).
18. The Council has introduced the Community Infrastructure Levy and indicates that SANG is provided from the contributions secured under the Levy. However, the Levy does not provide for a contribution towards SAMM which, consequently, needs to be secured separately. In the documentation submitted with the Questionnaire the Council indicated that while a contribution towards SAMM was paid at the time of the application "it has now been refunded upon refusal of this application at the request of the applicant". This would mean that the relevant contribution is in place and I cannot be satisfied, under the precautionary principle set out in ODPM Circular 06/2005, that adequate mitigation would be in place to prevent significant harm to the SPA.
19. This statement also makes reference to "a new, very similar application for two four-bedroom dwellings on this site" but, as set out above, I have not been provided with any details of this. Had I found the proposal had been acceptable I would have sought clarification on the status of any contribution towards SAMM, but in light of my overall conclusions I need not take this matter further.
20. However, on the information in front of me it would appear that the proposal does not make adequate provision for the effects of the development on a protected species, badgers, and protected habitats. As such the proposal would be contrary to Policy NRM6 of the South East Plan, which seeks to ensure development does not have a significant effect on the SPA through mitigation, and Policies CP14A and CP14B of the CSDMPD which seek to conserve and enhance biodiversity by demonstrating no adverse impact to the integrity of the nature conservation interest, in this case badgers on the SNCI and the SPA. It would also be contrary to paragraph 118 of the Framework which indicates that if significant harm to biodiversity resulting from a development cannot be avoided or mitigated then planning permission should be refused.

Other matters

21. Local residents have expressed concerns that part of the site is subject to flooding as it is at the bottom of a fold in the land. However, I have no evidence to support this assertion and am advised by the Council that the site

lies in Flood Zone 1 of the Environment Agency's maps meaning that the site is at low risk of flooding. I am therefore satisfied that, if permission had been granted, adequate provision to prevent flooding could have been secured by planning condition.

22. Concerns have also been raised at potential overlooking from the new dwelling leading to a loss of privacy for the occupiers of adjoining properties. I looked carefully at the relationships between properties at the site visit and am satisfied that there would be sufficient separation between properties so that there would not be any overlooking between them leading to an unacceptable loss of privacy for adjoining occupiers.

Planning Balance

23. The Council indicates that it does not have a five year supply of housing land meaning that policies for the supply of housing are out-of-date; see paragraph 49 of the Framework. However, paragraph 119 of the Framework states that the presumption in favour of sustainable development set out in paragraph 14 of that document does not apply where development requiring appropriate assessment under the Habitats Directive is being considered, planned or determined.
24. My lack of certainty as to there being appropriate mitigation in place to ensure no significant effect on the SPA means it would be necessary to undertake an appropriate assessment showing that proposed development, along with other plans and projects, would not have a significant effect on the integrity of the SPA before allowing the development.
25. In any event, the effect of the proposed development would be to result in Sylvan Craig being significantly and demonstrably out of keeping with the spacious character of the area and appear cramped within its site, and there is insufficient information to allow me to judge whether badgers would be adversely affected by the proposal. These harms significantly and demonstrably outweigh the benefits provided by a single dwelling taking into account the lack of a five year supply of housing land.

Conclusion

26. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR