
Appeal Decision

Site visit made on 10 July 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 30th July 2019

Appeal Ref: APP/N1730/W/18/3217805

Cherrywood Cottage, Reading Road North, Hampshire, Fleet GU51 4HT

- 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 Vince Millen against the decision of Hart District Council.
 - The application Ref 18/01784/FUL, dated 7 August 2018, was refused by notice dated 25 October 2018.
 - The development proposed is detached passive bungalow and extension of driveway.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. While the application form states the applicant name as 'Millen Millen' from appeal form and the wider evidence before me it is clear that this is an error and that the name is Vince Millen. Therefore, the heading above has been amended accordingly and the appeal proceeds on this basis.
3. Similarly, while the application form states the site address as being Cherrywood Cottage and Kandy House, since the appeal form and decision notice refer to Cherrywood Cottage only and the plans indicate that the appeal site falls within the property of Cherrywood Cottage only, the appeal proceeds on this basis and I have amended the heading above accordingly.

Main Issues

4. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the North Fleet Conservation Area (NFCA); and
 - the effect of the proposal on the Castle Bottom to Yateley and Hawley Commons Site of Special Scientific Interest (SSSI) and Thames Basin Heaths Special Protection Area (SPA).

Reasons

NFCA

5. The site lies within NFCA which is characterised by detached dwellings on spacious plots with a significant quantity of mature trees such that an important part of the significance of the NFCA lies in its distinct sylvan quality. Cherrywood Cottage is sited on the southwestern side of Reading Road North

and with the other dwellings along this road and Fitzroy Road form part of Character Area 1 which identifies the very sylvan character with groups of conifers and mixed deciduous trees as a key characteristic.

6. While long driveways may be prevalent in the wider area, they are generally located on the north side of Reading Road North, whereas the properties on the south side of the road have buildings closer to the road and long rear gardens with a distinctive belt of woodland to the rear of these gardens and the gardens of Fitzroy Road. Given the substantial size of this belt of woodland, it forms a distinctive and significant part of the NFCA. As such, by being in keeping with the distinct pattern of development of long rear gardens that provide an attractive setting for the woodland to the rear, the appeal site provides a substantial contribution to the significance of the NFCA.
7. The proposal comprises a single storey dwelling located behind Cherrywood Cottage and a driveway that runs along the length of the plot to the proposed dwelling. I have had regard to the planning history of the site including the comments of the Inspectors for the previous appeal cases at the site¹. With regard to the more recent case in June 2018, the Inspector for that case found that the proposal would introduce development out of keeping with the prevailing pattern of development in the area and would have an adverse effect on the sylvan qualities of the appeal site and area, thereby failing to preserve the character and appearance of the NFCA.
8. The appellant has sought to deal with the concerns of the previous Inspector. The main changes in the proposal from the previous scheme include the reduction in footprint and repositioning of the proposed dwelling and an amended access. An Arboricultural Impact Assessment dated August 2018 (AIA) which includes a woodland management plan has also been submitted. Assessing first the effect of the development on the prevailing pattern of development, the proposed dwelling would still be located within the rear garden of Cherrywood Cottage and while it would not be readily visible from the street, it would nevertheless constitute backland development that would have a significantly smaller plot size than the adjacent plots that back onto the belt of woodland.
9. While the proposed plot would have a larger size than that sought by Policy URB18 of the Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 (LP), it would be significantly smaller than the adjacent plots which back onto the belt of woodland, and would have an incongruous effect on the historical pattern of development along the road that forms a spacious setting for the belt of woodland and is an important aspect of NFCA. Consequently, the proposal has not overcome the previous Inspector's finding that the proposal would be out of keeping with the prevailing pattern of development in the area.
10. I note the comments of the Inspector for the case at Heather Hill². However, from the evidence before me, that site was in a different character area with a different pattern of development to the area near the appeal site. I also note the developments to the north west and opposite the appeal site. However, in both these cases, those developments have a different relationship to the

¹ Appeal Refs: APP/N1730/W/16/3159196 and APP/N1730/W/17/3180432

² Appeal Ref: APP/N1730/W/15/3131985

distinctive belt of woodland that lies along the rear of the gardens of Reading Road North.

11. Turning my attention to the effect of the development on the sylvan qualities of the appeal site and area, the tree removal required to facilitate development is similar to the previous appeal, with the exception that the proposed access would not require the removal of the Category B oak tree.
12. I acknowledge that the trees proposed to be removed may be smaller than others on the site, would not be prominent from the public domain, and that the majority of the trees on the site are proposed to be retained. However, the trees proposed to be removed to facilitate the development are nevertheless of a substantial height and quantity such that they are of significant amenity value and provide a substantial contribution to the NFCA. Consequently, their removal would have an adverse effect on the existing mature canopy cover within the appeal site and would therefore detrimentally affect the character and appearance of the NFCA. Consequently, the proposal has not overcome the previous Inspector's finding that the proposal would have an adverse effect on the sylvan qualities of the appeal site and area.
13. While I note the AIA which classifies the trees to be removed to facilitate the development as being Category C, from the evidence before me the majority of these are healthy and likely to live for at least 10 years. I acknowledge that a number of trees on the appeal site have been removed over the years such that the woodland in this area has not been undisturbed. However, a significant portion of the woodland on the site remains such that the trees on the site continue to form part of the belt of woodland and sylvan quality and provide a distinctive contribution to the character and appearance of the NFCA.
14. I note the comments relating to the Tree Preservation Order as an area designation. However, even if the area designation was not in place, the trees would still be protected by the NFCA designation and for the foregoing reasons have significant amenity value. I acknowledge the evidence regarding the construction of the driveway and am satisfied that it would not cause significant harm to the trees. However, the lack of harm in this respect does not override the adverse effects of the removal of the trees to facilitate the development as discussed above.
15. I note the comments of the Inspectors for the cases at Rushgrove³ and the similarities between those cases and this appeal case pointed out by the appellant. However, that site is a significant distance from the appeal site and separated from it by Herbert Road, and backland development is more prominent in that block than the area around the appeal site. Moreover, since Rushgrove has a different relationship with the belt of woodland compared with the appeal site, they do not share the same context. In any event, each case must be determined on its individual merits.
16. The proposed building is now a greater distance from the rear of the site than the previous scheme. However, the shadow interference graph for the whole garden indicates that the garden would be in shade during a large part of the afternoon during the spring and summer months. While the shade may be dappled in nature, given the length of time that the garden would be affected, I share the concerns of the previous Inspectors in this respect. However, since

³ Appeal Refs: APP/N1730/W/15/3032576 and APP/N1730/W/17/3171923

the trees are protected, any substantial works to the trees would require express permission from the Council.

17. Overall, the proposed development would not preserve the character or appearance of NFCA and would conflict with LP Policies GEN1 and GEN4 which together among other things require developments to be in keeping with or improve local character. It would also conflict with LP Policy URB12 which among other things seeks development that is sympathetic in relation to adjoining buildings and with LP Policy URB 18 which requires compliance with LP Policy GEN 4. The proposal would conflict with LP Policy CON 8 which relates to development that is proposed which relates to trees, woodlands or hedgerows of significant landscape or amenity value. In addition, the proposal would conflict with LP Policy CON 13 which relates to conservation areas. It would also conflict with the National Planning Policy Framework (Framework) including paragraph 200 in this regard.

Castle Bottom to Yateley and Hawley Commons Site of Special Scientific Interest (SSSI) and Thames Basin Heaths Special Protection Area (SPA)

18. I note the reason for refusal regarding the SSSI and SPA. Had I found that the proposed development would not have a harmful impact on the character and appearance of NFCA I would have found it necessary to investigate this matter in greater detail as part of my appropriate assessment. However, in the circumstances of this case this has not proved to be a determinative matter given the harm to NFCA that would arise from the development.
19. From the evidence before me it appears likely that the proposed development would give rise to at least some harm to the SSSI and SPA were that harm not to be mitigated. LP Policies CON1 and CON2 seek to restrict development that would adversely impact on national or international ecological designations and Policy NRM6 of The South East Plan – Regional Spatial Strategy for the South East (SE Plan) requires adequate measures to avoid or to mitigate any potential adverse effects on the SPA.
20. The Council has adopted the Interim Avoidance Strategy for the Thames Basin Heaths Special Protection Area which sets out mitigation measures in the form of financial contributions towards Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM).
21. Although the appellant has expressed a willingness to enter into a unilateral undertaking to provide a financial contribution towards a SAMM, since none has been provided, there is no certainty that such mitigation would be secured or would be effective.
22. While not determinative, as it has not been demonstrated that the proposal would not harm the SSSI and SPA, it would not accord with LP Policies CON 1 and CON 2 which seek to protect the nature conservation value of SPAs and SSSIs. It would also fail to accord with SE Plan Policy NRM6.

Planning Balance

23. The proposal would result in harm to the character and appearance of NFCA and there has not been a demonstration that the proposal would not harm the SSSI and SPA. The harm to the NFCA would be less than substantial and in accordance with paragraph 196 of the Framework, this harm should be weighed against the public benefits of the proposal. Bearing in mind the

statutory duty⁴ for special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area, and paragraph 193 of the Framework which states that great weight should be given to the asset's conservation, the identified harm carries substantial weight against the proposed development.

24. The appellant has proposed a woodland management plan as detailed in the AIA, as a benefit along with others including new planting. While I acknowledge the evidence regarding the longevity of the woodland if left unmanaged, since the woodland is afforded significant protection by both the Tree Preservation Order and Conservation Area designations, I attribute this benefit limited weight.
25. I also note that the proposed building would be built to Code 6 of the former Code for Sustainable Homes. However, while I recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, in assessing the appeal based on its individual merits, the proposal would provide only limited benefit to the wider public and is attributed limited weight.
26. Therefore, on balance, the benefits claimed by the appellant do not outweigh the substantial weight attached to the harm to the NFCA.

Other Matters

27. While I note the emerging Hart Local Plan and the Fleet Neighbourhood Plan, since there is no certainty that the policies within either plan will be adopted in their current form, I have assessed the appeal based on the adopted policies.
28. I note local concerns including regarding wildlife, however, these have not altered my overall decision.

Conclusion

29. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR

⁴ S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990