
Appeal Decisions

Site visit made on 27 March 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2019

Appeal A - Ref: APP/R3650/W/18/3216794

Borrow House, Jumps Road, Churt, Farnham GU10 2LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Monachus Estates Limited against the decision of Waverley Borough Council.
 - The application Ref WA/2017/0928, dated 21 April 2017, was refused by notice dated 21 May 2018.
 - The development proposed is the erection of 3 dwellings following demolition of existing commercial and other buildings, removal of hard standings, access road, sand school, new landscaping, detached garage, formation of new access road and associated landscaping.
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Appeal B - Ref: APP/R3650/W/18/3219959

Borrow House, Jumps Road, Churt, Farnham GU10 2LB

- 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 Monachus Estates Limited against Waverley Borough Council.
 - The application Ref WA/2018/1847, is dated 22 October 2018.
 - The development proposed is the erection of rear extension and porch.
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Decisions

1. Appeal A is allowed and planning permission is granted for the erection of 3 dwellings following demolition of existing commercial and other buildings, removal of hard standings, access road, sand school, new landscaping, detached garage, formation of new access road and associated landscaping at Borrow House, Jumps Road, Churt, Farnham GU10 2LB in accordance with the terms of the application, Ref WA/2017/0928, dated 21 April 2017, subject to the conditions set out in the attached Schedule.
2. Appeal B is allowed and planning permission is granted for the erection of rear extension and porch at Borrow House, Jumps Road, Churt, Farnham GU10 2LB in accordance with the terms of the application, Ref WA/2018/1847, dated 22 October 2018, subject to the conditions set out in the attached Schedule.

Procedural Matters

3. As set out above, there are two appeals on this site. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. The application, subject to Appeal A, was submitted in outline. The application form indicates that approval was sought only for access, layout and scale. I have determined the appeal on this basis.
5. Additional information has been submitted in respect of the proposed foul drainage facilities. The Council has been provided with the opportunity to comment on this information and as such no injustice has been caused. I have considered the additional information when making my decision.
6. Since the planning application was refused the Government has published a revised National Planning Policy Framework (the Framework). The Council references the revised Framework in its statement of case, on which the appellant has had the opportunity to comment. I have considered the appeal on the basis of the revised Framework.

Main Issues

7. The main issues in the case of Appeal A are:
 - i) whether or not the proposal is inappropriate development in the Green Belt, and
 - ii) whether the location is suitable for dwellings having regard to policies restricting development in the countryside,
8. The main issues in the case of Appeal B are:
 - i) whether or not the proposal is inappropriate development in the Green Belt, and
 - ii) the effect of the extension to the dwelling on the openness of the Green Belt,
9. In addition to the above, further main issues in respect of both Appeal A and B are:
 - iii) the effect of the proposals on the nature conservation interests of nearby designated European nature conservation sites, and
 - iv) if the proposals are inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Appeal A

Whether or not the proposal is inappropriate development in the Green Belt

10. The appeal site is located within the Green Belt. The National Planning Policy Framework (the Framework), at para 145, indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. The partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development is listed as one exception.

11. Part of the appeal site is occupied by existing buildings, comprising Nissen type huts. These have been in existence for a substantial period and are permanent buildings. The proposed dwellings would occupy the locations of these buildings and would result in the reduction of the amount of built development currently at the site. Both main parties agree that the scheme for the dwellings would result in reductions in the floor area, footprint and volume of buildings within the site. Based on the submitted information, I agree with these views. The proposed dwellings would incorporate flat, green roofs which would limit their height. Furthermore, the scheme would also result in a reduction from 19 individual buildings to 3 dwellings. This would limit the spread of development throughout the site and as such would significantly improve the openness of the site and consequently the Green Belt. The scheme for the houses would also encompass only the areas within the site that contain existing buildings and structures, limiting the development to areas which comprise PDL. Thus, the scheme for the dwellings would not be inappropriate development within the Green Belt.

Location of development

12. The site is located away from any settlement and therefore lies in the countryside for planning purposes. Paragraph 79 of the Framework outlines the circumstances where the development of isolated homes can be considered to be acceptable. The parties agree that the scheme would result in isolated homes in the countryside and I have no reason to find differently. As a consequence, the scheme would be contrary to the provisions of paragraph 79.
13. However, there are currently 19 buildings present on site, and these have commercial uses. The traffic movements associated with these units when occupied could be significant. Whilst I observed that many of the units were empty at the time of my site visit, a number of the units were undergoing refurbishment and as such I consider it likely that the units would be utilised in the future. The nature of the traffic that would be associated with the units would also likely include commercial vehicles, including HGVs.
14. The development on the site of 3 dwellings would in my view result in a substantially lower number of traffic movements than the commercial use of the site. Whilst the site is not near to a settlement where access to services can be made on foot or via public transport and that residents are likely to utilise the private car to undertake most, if not all, journeys, the likely number of these journeys would be lower than that which could currently occur. This would result in environmental benefits and would also benefit existing residents in the vicinity of the site, in terms of the reduced usage of the access track. As such, I consider this outweighs the non-compliance with the provisions of paragraph 79 of the Framework and that the location is suitable for the development.

Appeal B

Whether or not the proposal is inappropriate development in the Green Belt

15. Para 145 also lists the extension of a building, provided that it does not result in disproportionate additions over and above the size of the original building, as an exception to the construction of new buildings being regarded as inappropriate in the Green Belt.

16. Based on the Councils figures, the extension to the rear of the existing dwelling would result in an increase of 240% in its floor area. In my view, this can not amount to anything other than a disproportionate addition to the existing property. In this context, the scheme for the extension to the dwelling would comprise inappropriate development in the Green Belt.

The effect of the extension to the dwelling on the openness of the Green Belt

17. The extension would comprise a new element to the rear, parallel to the existing. This would result in a twin gabled appearance to the side elevations which would undoubtedly increase the visual bulk of the building. Whilst this effect would be confined to views in proximity to the dwelling, it would nonetheless result in a small loss of openness to the Green Belt by reason of an increased quantum of development present at this location.

Appeals A and B

Designated European nature conservation sites

18. The site lies within 400 metres (m) of the Thursley, Hankley and Frensham Commons (Wealden Heaths Phase 1) Special Protection Area (SPA) and the Thursley, Ash, Pirbright and Chobham Common Special Area of Conservation (SAC). Included within these sites is the Thursley and Ockley bog Ramsar Site. These are sites that have been specifically designated for their international importance for nature conservation purposes, specifically as habitats for bird, reptile and invertebrate populations. The Wealden Heaths Phase 1 SPA is designated for its breeding populations of Nightjar, Woodlark and Dartford warbler, whilst the Ramsar site supports rare wetland invertebrate species. Given the location of the site in proximity to these designations and that I find the schemes are acceptable in relation to the other main issues, such that I would be minded to allow the appeals, I must undertake an Appropriate Assessment (AA), to consider what impacts, if any, the developments would have on these designated areas.
19. I have undertaken this assessment on a proportional basis, drawing on the information provided by the Council and adopting a precautionary approach. A shared foul drainage scheme is proposed to cater for flows from both the proposed new dwellings and the extended property. The originally proposed foul drainage system included a soakaway which, in light of the hydro-connectivity with the nature conservation sites would likely result in a significant adverse effect on the site, through a degradation of habitat as a result of increased levels of nitrogen and phosphorus. Furthermore, given that one of the schemes is for housing, this is likely to result in increased recreational visits to the designated sites, which may lead to the harmful disturbance of birds. As a consequence, the schemes, both alone and in combination with other schemes, could have a significant adverse effect on the integrity of the sites. As a result, this harm needs to be mitigated, in order to overcome the harm and make the developments acceptable in planning terms.
20. In respect of the proposed foul drainage arrangements, additional information has been submitted to address concerns that were initially raised by Natural England (NE), which includes a S106 legal agreement (dated 15th March 2019) securing the implementation and future maintenance of the drainage facilities. Subject to measures detailed in this information being secured, NE has

withdrawn its objection on the basis that any impacts on levels of nitrogen and phosphorus can be appropriately mitigated.

21. The number of dwellings within a 5km buffer of the Wealden Heaths Phase 1 SPA is not substantial, which does not result in a significant amount of pressure on the SPA. Furthermore, the amount of future development within the buffer is also expected to be low. Given that the SPA is unfragmented, in general, the bird populations it supports are less vulnerable to edge effects. The Council has determined that a low level of windfall sites within 400m of the SPA would result in a negligible change to the amount of existing housing stock; this has been determined as there being capacity for 40 dwellings. Currently, 31 dwellings have been permitted within the 400m buffer and therefore there is capacity for the proposed additional three dwellings. As such, the housing scheme would not result in a significant effect on the integrity of the SPA.
22. NE has been consulted on the most up-to-date information that has been provided. On the basis of this, NE has no objection to the proposals provided that appropriate mitigation, in the form of appropriate drainage facilities, can be secured and that there is the capacity for the additional dwellings within the 400m buffer, which the Council has confirmed that there is. Thus, subject to securing the mitigation, the schemes would not have an adverse effect on the nature conservation interests of nearby designated European nature conservation sites. Accordingly, the schemes would accord with Policy NE1 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites (2018) and Policy D1 of the Waverley Borough Local Plan (2002). These policies seek to ensure that development conserves and enhances biodiversity, as well as preventing detriment to the environment. The schemes would also accord with paragraph 175 of the Framework.

Other considerations

23. Whilst I have identified that there would be a loss of openness resulting from the extension to the existing dwelling, this would be limited in its extent. However, I am conscious that the Framework states that any harm to the Green Belt should be given substantial weight.
24. I am also conscious that the scheme for the erection of 3 new dwellings would result in a significant improvement to openness, through a reduction in the spread of built form, together with corresponding reductions in footprint, floor area and volume of buildings.
25. Ordinarily, there would be the possibility that the scheme for the new dwellings would not be implemented. In the circumstances of the case before me however, I note that the submitted S106 legal agreement stipulates that the scheme for the extension to the dwelling will not be commenced until the demolition of the other existing buildings on the site has been completed. As such, the significant improvement to openness, delivered as a result of the housing scheme, would be delivered prior to any extension to the existing dwelling taking place. As such, I give very significant weight to the benefits to openness that the scheme for the dwellings would bring and note that the extension to the dwelling would result only in a small loss of openness.

Other Matters

26. Concern has been raised in respect of possible flooding of the site. The Council, in the officers' report, highlights that the site has a low probability of flooding. It further details that a Sustainable Drainage System (SuDS) would be introduced to ensure surface run-off rates do not increase as a result of the development. The Lead Local Flood Authority was consulted on the planning application and reviewed the drainage strategy and was satisfied that the drainage scheme met the relevant requirements. I also note that in its most recent response, NE highlight that in-house hydrology specialists were consulted, and no objection was raised. On the basis that there is no objection from these consultees, I have no reason to find differently on this matter.
27. I note that concerns have been raised by interested parties in respect of protected species, visual amenity, effect on the historic environment, potential for light pollution, fire risk and the size of the proposed properties. No objection has been raised by the Council on these matters and there is no substantive evidence before me to show that the scheme would have a detrimental effect in these regards.
28. In respect of the effect on wildlife, subject to the imposition of appropriate conditions, the scheme would have no unacceptable effect on matters of wildlife importance.

Conditions

Appeal A

29. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development. A condition is also required to ensure compliance with the submitted plans, but only in respect of layout, scale and access as these are not reserved matters.
30. Given the proximity to existing properties, I have imposed a hours of construction condition to safeguard living conditions. I have included a condition in respect of water usage, in the interests of sustainable design. In the interests of safeguarding biodiversity, a condition is necessary to require the development to accord with the recommendations of the ecological report. For the same reason, I have imposed a condition requiring a scheme of external lighting to be submitted for approval, as well as a Reptile Mitigation Strategy.
31. In order to protect trees that are worthy of retention, a condition is included requiring details of ground levels and surfacing within the areas around trees, together with details of the positions of services within the site. In this respect, the recommendations of the Arboricultural Report will also be secured by condition.
32. Whilst I note the distance from the public highway, given the access serves additional properties and to avoid any obstruction to the access and inconvenience to existing residents, I consider that a condition in respect of parking and turning is necessary. Given the possible traffic generation associated with the existing use of the site, a condition in respect of a Construction Transport Management Plan is not necessary. I have imposed a condition requiring electric vehicle charging points, in the interest of sustainable transport.

33. Given the extent of the site and the proximity to heritage features, as identified in the officers' report, a condition is required in respect of archaeology. Due to the previous commercial uses present within the site a condition is necessary in respect of possible contamination.
34. In light of the small number of units and the availability of space within the site, I do not consider that the suggested condition in respect of bin stores and their management would meet the test of necessity. A condition requiring the submission of a Landscape Ecological Management Plan has been suggested. However, the submitted S106 legal agreement includes provision for this, as such a condition is not necessary. I have however included a condition in respect of the submission of ecological protection measures during the construction phase of the development, including an ecological watching brief.
35. No exceptional justification has been provided for removing permitted development rights for works to the dwellings or other works; as such a condition in this respect is also not necessary.
36. Conditions in respect of foul drainage are not necessary as these requirements are contained within the S106 legal agreement. As landscaping is a reserved matter, conditions requiring a landscape masterplan and details of boundary treatments are also not necessary.

Appeal B

37. I have imposed a commencement and plans condition in the interests of certainty. I have also imposed a materials condition in the interests of safeguarding character and appearance.
38. A condition is suggested in respect of obtaining a European Protected Species Licence however as this is dealt with under separate legislation, this is not necessary. However, as the presence of bats has been confirmed, it is necessary to ensure that there is no increase in the amount of external lighting. As such, a condition is required in this respect.
39. Matters in respect of the drainage system are covered by the S106 legal agreement and as such there is no need to repeat them. Landscaping is not necessary for the scheme for the extension to the property and therefore a condition is not required in this respect. Given the proximity of the works to the SPA, a condition in respect of surface water drainage is necessary.

Conclusion

40. In respect of Appeal A, it would not be inappropriate development in the Green Belt, the location is suitable for the development and, subject to mitigation, there would be no adverse effect on the nature conservation interests of nearby designated European nature conservation sites.
41. In respect of Appeal B, the proposal for an extension to the existing dwelling would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. It would also lead to a small loss of openness to the Green Belt. However, I consider that the other considerations in this case, namely the benefit of the improvement to openness that would be delivered is sufficient to clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development exist.

42. For the reasons given above and having regard to all matters raised, I conclude that Appeal A should be allowed, and that Appeal B should be allowed.

Martin Allen

INSPECTOR

Appeal A - Schedule of conditions

- 1) Details of the appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - RE1556-GA-200B Site Layout and Landscape Ecological Strategy Plan
 - RE1556-GA-103 Technical Plan
 - RE1556-DE-100 Elevations and Sections
 - RE1556-DE-101 House 1 Plans
 - RE1556-DE-102 House 2 Plans
 - RE1556-DE-103 House 3 Plans
 - RE1556-GA-102 Existing and Proposed Hardstanding
 - RE1556-GA-100 Existing Site Plan
 - GP/BH/03/14 Existing Elevations Units 1-6
 - GP/BH/04/14 Existing Elevations Units 7-10
 - GP/BH/06/14 Existing Elevations Units 11, 12 and 13
 - GP/BH/05/14 Existing Elevations Units 14 and 20
 - GP/BH/07/14 Existing Elevations Units 15, 16 and 17
 - GP/BH/08/14 Existing Elevations Units 18 and 19
 - GP/BH/01/14 Existing floor Plans and Elevations Stable Block
- 5) Demolition or construction works shall take place only between 08:00 and 18:00 on Mondays to Fridays, between 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

- 6) Prior to the occupation of each dwelling, details shall be submitted to and approved in writing by the Local Planning Authority, confirming that the dwelling has been completed to meet the requirement of 110 litres of water per person per day.
- 7) The development shall at all times be carried out in accordance with the recommended actions in Section 5 of the Protected Species Survey Addendum (September 2017) by Ecology Solutions.
- 8) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before any dwelling is first occupied. The development shall be carried out in accordance with the approved details.
- 9) Prior to the commencement of development, a Reptile Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 10) Prior to the commencement of development, a Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following:
 - cross sections/details indicating the proposed finished ground levels, surface materials including sub-base and depth of construction and method/materials used for edging, within the protected zone around retained trees, and
 - details of any services to be provided or repaired including drains and soakaways.The development shall be carried out in accordance with the approved details.
- 11) The development shall at all times be carried out in accordance with the recommendations set out in the Arboricultural Implications Report (Reference SJAair 16352-01 dated April 2017) and the tree protection measures shall remain in place for the duration of the construction works.
- 12) No dwelling shall be occupied until the turning areas and parking spaces for that dwelling have been provided, in accordance with the approved plans. The turning areas and parking spaces shall thereafter be retained and kept available for that purpose.
- 13) No development shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved in writing by the Local Planning Authority.
- 14) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning

authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.

- 15) No development shall take place until details of the implementation, adoption, maintenance and management of the sustainable drainage system shall have been submitted to and approved in writing by the local planning authority. Those details shall include:
- i) detailed drawings of the system as well as calculations showing the design capacity of the system;
 - ii) a timetable for its implementation; and,
 - iii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.

- 16) Prior to the commencement of development, a Construction Ecological Management Plan (CEMP) detailing measures to protect matters of ecological interest during the construction phase of the development, to include an Ecological Watching Brief to be maintained during construction works, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 17) Prior to the occupation of any dwelling, Electric Vehicle Charging Points (EVPs) shall be provided within the development in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority. The EVPs shall thereafter be retained and kept available for use.

Appeal B - Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - GP/BH/01/14 Rev A,
 - GP/BH/02/14 Rev A,
 - GP/BH/03/14 Rev B,
 - GP/BH/04/14 Rev B,
 - RE1556-L01
 - the submitted Location Plan.
- 3) All external materials to be used in the works hereby permitted shall match those used in the existing building.
- 4) No external lighting shall be installed other than in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
- 5) No above ground works shall take place until full details of the method of surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.