



Appeal Decision

Site visit made on 24 June 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2019

Appeal Ref: APP/Y3615/W/19/3224432

4 and 6 Ashdene Road, Ash, Surrey GU12 6TB

- 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 Terry Spooner against the decision of Guildford Borough Council.
 - The application Ref 18/P/01340, dated 5 July 2018, was refused by notice dated 6 December 2018.
 - The development proposed is erection of two chalet bungalows and garages.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the refusal of planning permission, the Council has adopted the Guildford Borough Local Plan: Strategy and Sites, on 25 April 2019 (the LP). I have therefore given the Policies of the LP full weight as the relevant development plan for the area. Saved Policies NE4 of the Guildford Borough Local Plan, 2003 (the GBLP) as well as Policy NRM6 of The South East Plan, 2009 (the SEP), have however not been superseded by the LP and so remain in force.

Main Issues

3. The main issues are the effects of the development on:
 - i. the character and appearance of the area, having particular regard to plot 2; and
 - ii. the integrity of the Thames Basin Heathland Special Protection Area (the SPA).

Reasons

4. The site comprises an open area of land to the rear of 4 and 6 Ashdene Road, formerly being the rear gardens of these properties. The site is accessed via an entranceway between Nos 4 and 6.
5. Planning permission was refused¹ in 2013 and later dismissed at appeal for a replacement dwelling fronting the road as well as a dwelling located within the rear garden. I however only have very limited details of this scheme and the

¹ Council Ref 13/P/01907

decisions before me. Planning permission was however granted² in 2017 for one chalet bungalow and one bungalow situated at the rear of the site. It is proposed to change the plot 2 bungalow to that of a chalet bungalow, using a handed version of that already approved on plot 1.

Character and appearance

6. The area consists of dwellings of mixed design, which predominantly address the road frontage. Rear gardens along Ashdene Road are generally characterised by a lack of built form, aside from small-scale ancillary outbuildings. The appeal site however consists of two of the largest of the former gardens as the depth of plots reduces further along the road. The neighbouring dwellings are also sited a considerable distance from the site's boundaries, which provides spacing and visual openness.
7. The Council have accepted the development of the site for 2 dwellings which is a material consideration to which I attach significant weight. The scheme for plot 2 would be 1.5m higher than the approved bungalow, according to the Council, along with a higher eaves level. It would also have a greater scale and bulk although I only have very limited details of that approved scheme before me.
8. Given the acceptance of a chalet bungalow at the site on plot 1, I am not persuaded that a handed version of this on plot 2 would fail to satisfy the hierarchy of built form within this backland location. Whilst plot 2 is not bordered on all sides by built form, it would be of hipped roof design that reduces in height and scale towards its boundaries. This provides a transition to surrounding gardens, particularly then given their open character.
9. It would, in light of the approved scheme, be an appropriate form of development that would integrate with the existing environment. It would accordingly not be excessive in terms of its scale and bulk in this context and so would not have an unacceptable effect on the distinct local character of the area. Whilst the chalet bungalows would be visible from neighbouring properties, they would neither be visually intrusive, overbearing nor out of context with general pattern of development in the area.
10. I therefore conclude the development, having particular regard to plot 2, would not be harmful to the character and appearance of the area and so would accord with Policy D1 of the LP. This policy, amongst other things, requires development to reflect the distinct local character of the area and respond and reinforce locally distinct patterns of development. For the same reasons it would comply with the good design aims of the National Planning Policy Framework.

Effect on the SPA

11. The site is located within the 400m to 5km zone of influence of the Thames Basin Heathland Special Protection Area (the SPA), which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). It is incumbent upon me as the competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA.

² Council Ref 17/P00404

12. The evidence before me is that the SPA provides a habitat for three internationally important bird species; woodlark, nightjar and Dartford warbler. These birds nest on or near the ground and, as a result, are very susceptible to predation by cats, rats and crows, and to disturbance from informal recreational use, especially walking and dog walking.
13. The Council identifies that the proposed development is likely to have a significant effect on the SPA due to additional residential pressures arising from the proposal, in combination with other developments. I have little evidence to disagree with this assessment albeit it would appear that Natural England were not consulted on the appeal application. In any event, the Habitats Regulations require that an Appropriate Assessment be carried out.
14. In this case the proposal comprises two additional units of accommodation. Due to the proximity of the site to the SPA, I am satisfied on the evidence before me that there is a reasonable likelihood that it would be accessed for dog walking and other general recreational uses by future occupiers of the development leading to the potential for recreational disturbance to the SPA. Although this may be minimal by itself, a significant effect on the integrity of the SPA would occur, when considered in combination with other residential development in the surrounding area. The evidence before me suggests that such activity has the potential to intensify the decline of bird populations within these areas.
15. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European site. I may therefore give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the site. This could potentially include a financial contribution secured through a planning obligation to be used for suitable works or management practices. Due to the small scale of the proposed development I am satisfied there is no scope to provide on-site mitigation.
16. The Council has a Supplementary Planning Document in the form of the Thames Basin Heaths Special Protection Area Avoidance Strategy, 2017 (the SPD). This provides a framework where developers can provide or contribute to the delivery, maintenance and management of Suitable Alternative Natural Green Space (SANG) within the borough and for Strategic Access Management and Monitoring (SAMM) which can mitigate the impact of development. Based on the evidence provided in the SPD, I have sufficient certainty about the justification for the mitigation tariff payment levels, the arrangements for administering the payments for their intended purpose and the nature of the mitigation measures.
17. However, whilst the appellant has indicated a willingness to enter into a legal agreement with the Council to secure payments for mitigation and monitoring, as he has done with previously approved development at the site, no such agreement is before me. In the absence of this I am not certain that the integrity of the SPA would be protected. The lack of adequate mitigation in respect of the SPA would therefore constitute a reason for dismissing the appeal.
18. The Habitats Regulations also require me to consider whether there are any alternative solutions. However, no solutions have been put forward for me to

consider. I must also consider whether there are any imperative reasons of overriding public interest, but the modest number of units of accommodation proposed is not sufficient to amount to such overriding public interest. Consequently, having regard to the Habitat Regulations, permission must not be granted.

19. I therefore conclude the development would affect the integrity of the Thames Basin Heathland Special Protection Area and so would fail to accord with Policy P5 of the LP as well as saved Policy NE4 of the GBLP and NRM6 of the SEP. These policies seek to ensure, amongst other things, that where net new residential development is proposed within the zone of influence, avoidance and mitigation measures must be delivered prior to occupation of new dwellings in perpetuity. Planning permission will not be granted for any development that would be liable to cause demonstrable harm, unless demonstrated that adequate measures are put in place to avoid or mitigate any potential adverse effects. For the same reasons it would not comply with the SPD.

Other Matters

20. Representations were received objecting to the development which raised other matters, including that the development would be unneighbourly and overlook existing properties. However, these matters are not in dispute between the Council and appellant. I also have no substantive evidence that the development would cause other planning harms. I therefore concur with the Council that given the separation distances between the dwellings and neighbouring properties, detrimental impacts would not occur.
21. Reference is also made in the Council's second reason for refusal about impact on the relevant Site of Special Scientific Interest (SSSI). I however have little evidence concerning a SSSI and so have not considered it further, given my findings in relation to the second main issue in this appeal.

Conclusion

22. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Paul T Hocking

INSPECTOR