
Appeal Decision

Site visit made on 20 August 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2019

Appeal Ref: APP/N1730/W/19/3222090

The Fosse, Pheasant Copse, Fleet GU51 4LP

- 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 & Mrs D Russell against the decision of Hart District Council.
 - The application Ref 18/01683/FUL, dated 19 July 2018, was refused by notice dated 27 November 2018.
 - The development proposed is 'Erection of a new dwelling and garage on land to the east of the existing dwelling at The Fosse. Demolition of existing flat roof garage and erection of a new single garage to serve the host dwelling.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The emerging Hart Local Plan: Strategy and Sites 2016-2032 (HLPSS) document has completed examination in public in November and December 2018, and Main Modifications have been published for consultation on 5 July 2019. Given its stage of preparation, its policies are capable of being material considerations in the determination of the appeal.
3. The Council also refers to the draft Fleet Neighbourhood Plan 2018-2032 (FNP) which has been examined and is due to proceed to referendum. I have also taken this into consideration.

Main Issues

4. The main issues are the effect of the proposal on i) the character and appearance of the North Fleet Conservation Area, and ii) the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Conservation Area

5. The North Fleet Conservation Area (the CA) comprises a largely Edwardian development of former heathland, defined by large, detached houses set back from the road on spacious plots populated by mature trees and other planting. The Council's Character Appraisal and Management Proposals document (March 2008) (the CAMP) describes the 'sylvan quality, allied to some unmade roads, grass verges, and (in places) undulating topography, which gives the

conservation area its special character.¹ This character was clear to see at my site visit, with the unmade roads and the houses in many cases screened by dominant trees to all sides of the plot evoking a rural character where natural features dominate.

6. The appeal site lies within Character Area 6² of the CA, the key characteristics of which include curving, narrow lanes on undulating topography, an enclosed, wooded feel owing to an abundance of trees, dwellings concealed by planting and varied building styles. I saw the site surroundings to be consistent with the character described in the CAMP, in particular the dominance of the trees and the resulting seclusion of the dwellings in almost all but direct views from their front entrances. Pheasant Copse is a cul-de-sac with seven dwellings. The Fosse is the sole dwelling on the northern side. The site is shallow and wide, in contrast to others which are narrow and deep or have irregular triangular-shaped plots. The existing dwelling occupies roughly the left half of the site as one looks from the road, with a driveway and detached garage towards the centre, and garden to the front, side and rear of the detached dwelling.
7. The proposed dwelling would occupy the other half of the site. At my visit, I saw this area to be unused and somewhat overgrown. It was well screened by trees around the site boundaries, such that views into and out of the space were limited. The site slopes gently away from the existing dwelling, and narrows in width towards the far end. The Council has not raised issues with the specific design of the proposed dwelling, described as a Hampshire 'vernacular' style, with facing brickwork and hipped roof with dormer windows and clay tiles. From my observations of the variety of styles and materials used across the CA, I find the design of the dwelling would be acceptable.
8. The Council's concern is that the proposal would represent 'overdevelopment' of the site. The policy relied upon primarily by the Council is URB18 of the Hart District Local Plan (Replacement) 1996-2006 and the First Alteration to the Hart District Local Plan (Replacement) 1996-2006 (the Local Plan). The policy permits residential development within the CA at various densities in different areas, which in this case, is dwellings on plots of more than approximately 0.2 hectares (0.5 acres)(Area A). The supporting text of the policy explains that the quoted densities are typical of the areas in question and are considered to be an important element of their character, along with even plot spacing and sizing. It adds that higher densities would detract from the character and result in loss of trees and large gardens. The text recognises, however, that density is not the only factor to be considered.
9. The appeal site would have an area of approximately 0.17 hectares, falling slightly short of the policy requirement, as would the reduced plot size of The Fosse. The appellant has submitted a study of the wider CA which indicates some 25% of plots within Area A are smaller than 0.2 hectares, and 36% of those are smaller than the appeal site. The Council points out that this in fact demonstrates only around 10% of all plots in Area A are smaller than the appeal site.
10. The appellant argues that policy URB18, in prescribing density limits, is inconsistent with the National Planning Policy Framework (the Framework) which advises against the inefficient use of land. However, Paragraph 122

¹ CAMP, Page 5, Section 1.1

² CAMP Pages 22-23 - Broomrigg Road and Calthorpe Road

allows account to be taken of the desirability of maintaining an area's prevailing character and setting. I also note the Council's points that it has no shortage of land for meeting housing needs and the density limits in Policy URB18 are not district-wide and reflect Paragraph 123(b) which sets out that a range of densities may be appropriate to reflect the accessibility and potential of different areas. I also note the policy is proposed to be saved in the emerging HLPSS. Given this, and the overall purpose of the policy to retain the high quality residential environment of the conservation areas, I find that Policy URB18 is not inconsistent with the Framework and so should be afforded significant weight.

11. In this case, the subdivision of the site would not result in a backland development or a dwelling squeezed to one side of an existing dwelling which sits in the centre of the plot. Rather, the offset position of The Fosse on the site means that two evenly spaced sites would be created, with both dwellings positioned centrally in each, and both accessed via a single entrance. I do not agree with the Council that the dwelling would be excessive in size relative to its plot. It would be smaller in footprint than the Fosse, set further back from the front boundary and would have garden space to all sides. The Fosse would effectively retain its existing garden area and would not appear demonstrably different in scale or form than at present. In my view, the dwellings would not appear cramped on the site and notwithstanding the shortfall in plot size they would maintain the spacious qualities and even spacing of plots characteristic of the CA.
12. Moreover, the proposal would retain the existing tree planting to the boundaries which would screen the property on approach along Pheasant Copse and so would preserve both the sylvan quality and the secluded positioning of dwellings within the CA.
13. The Council refers in its delegated report to an appeal decision in 2017³. However, I note that appeal site was located on a 'prominent corner position of the CA' and was subject of previous appeal decisions. Both of these would have been material considerations for the Inspector which differ from the circumstances in this appeal. Accordingly, I attribute limited weight to this decision and have considered the appeal on its own merits.
14. In reaching a view, I am mindful of the comments of the Council's conservation officer regarding incremental pressure for development within the CA and the potential cumulative effect of permitting additional dwellings. However, I have had regard to the specific circumstances of the site in this case. Future proposals would need to be assessed on their own merits taking account of the circumstances and policy context prevailing at the time.
15. I understand the desire of the Council to maintain the spacious character of the CA, and I recognise the concerns of interested parties in this respect. However, in this case, I find that despite the slight shortfall in plot size, the particular layout of the site and proposed position and form of the dwelling would nevertheless preserve the character and appearance of the CA.
16. For these reasons, I conclude that the proposal would accord with the overall aims of Policy URB18 to retain the high quality of the residential environment of the CA. In addition, I find no conflict with Policies GEN1, GEN4 and CON13 of

³ APP/N1730/W/17/3169077 – Dismissed 20 June 2017 – Copy of Decision letter provided by appellant

the Local Plan. Together, these policies require development to be in keeping with local character, improve urban design quality and to conserve or enhance the character or appearance of a designated conservation area. For the same reasons, I do not find conflict with draft Policy NBE10 of the HLPSS or Policy 16 of the draft FNP.

Thames Basin Heaths Special Protection Area

17. Additional residents resulting from the development could lead to increased visitor pressure on the Thames Basin Heaths Special Protection Area (SPA) which lies within 5km of the appeal site. In combination with other development, this could result in harm to the integrity of the European Site and its conservation objectives. Accordingly, Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 (CHSR) is required which I have conducted on a proportionate basis on the evidence provided.
18. The SPA provides a habitat for the internationally important bird species of woodlark, nightjar and Dartford warbler which nest on or near the ground and, as a result, are very susceptible to disturbance from informal recreational use, especially walking and dog walking. Given the susceptibility and vulnerability of the qualifying features of the SPA to such use, it cannot be concluded that the development would not adversely affect the integrity of the SPA in combination with other projects.
19. The Council's Interim Avoidance Strategy for the Thames Basin Heaths SPA (November 2010) (the IAS) sets out that the effect of increased visitor pressure can be mitigated through the provision of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring measures (SAMM). SANG may be provided by the developer subject to certain criteria or by way of a financial contribution. SAMM can only be met through a financial contribution. As these processes of securing mitigation have been drawn up in consultation with Natural England, I am satisfied that a planning obligation could be used so as to avoid significant adverse effects on the SPA.
20. The appellant has not submitted a completed planning obligation to secure either of these contributions, indicates a willingness to accept a Grampian-style condition. I have had regard to the Planning Practice Guidance which states that a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence is only appropriate in exceptional circumstances. No exceptional circumstances have been put to me and therefore I find a condition is not an appropriate means to secure mitigation in this case. As no planning obligation has been submitted, there is no mechanism by which I can be certain that the required mitigation would be secured.
21. No alternative solutions that would have a lesser effect, or avoid an adverse effect, have been provided. Therefore, the CHSR state the permission must not be granted, unless there are imperative reasons of overriding public interest. Given the scale of the proposal, I do not consider the provision of a single additional dwelling, and the limited benefits this would deliver to the housing stock and economic output, would represent such an overriding public interest in this case.
22. Therefore, following Appropriate Assessment and adopting a precautionary approach, I cannot conclude that the development would not have an adverse

impact on the integrity on the SPA. Therefore, the proposal would be contrary to Saved Policies CON1 and CON2 of the Local Plan and saved Policy NRM6 of the South East Plan (2009). Together, these policies seek to protect, and require adequate measures to avoid or mitigate any potential adverse effects on, the Thames Basin Heaths SPA.

Other Matters

23. The Council did not make findings of harm in respect of the effect on parking, access and highway safety; neighbours' living conditions; trees or drainage. Neither the evidence before me nor my observations on site lead me to different conclusions on any of these matters. A lack of harm in these respects is a neutral consideration weighing neither for or against the proposal.
24. I note other concerns raised by interested parties beyond those encapsulated by the main issues. Had my conclusions on the main issues indicated planning permission should be granted, I would have explored these concerns further. In the circumstances, it is not necessary to do so as these issues would not be decisive to my overall conclusion.

Conclusion

25. I find that the development would preserve the character and appearance of the North Fleet Conservation Area. However, my finding that the proposal has the potential to adversely affect a site of European nature conservation designation is a significant and decisive issue in this case, which, in accordance with Paragraph 11(d)(i) of the Framework provides a clear reason for refusing the development proposed and means that the presumption in favour of sustainable development does not apply in this case.
26. Consequently, for the reasons given, and taking all relevant matters into consideration, the appeal is dismissed.

K Savage

INSPECTOR