



Appeal Decision

Site visit made on 5 September 2019

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2019

Appeal Ref: APP/P1750/W/19/3227328

6 Church Avenue, Farnborough GU14 7AA

- 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 Holborn against the decision of Rushmoor Borough Council.
 - The application Ref 18/00697/FULPP, dated 25 September 2018, was refused by notice dated 4 December 2018.
 - The development proposed is erection of one detached three-bedroom house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has indicated that since its decision on the application, the Rushmoor Local Plan 2014-32 (LP) was adopted in February 2019 and therefore, the policies of the Rushmoor Core Strategy and the previously "saved" policies of the Rushmoor Local Plan Review have been superseded and no longer form part of the development plan. The Council also confirmed that the Housing Density & Design Supplementary Planning Document and the Sustainable Design & Construction Supplementary Planning Document were withdrawn in May 2019. The parties have had an opportunity to comment on the change in status of policies and guidance. I, therefore, necessarily determine this appeal having regard to the policies of the current development plan, unless material considerations indicate otherwise.
3. Following the adoption of the LP, the Council has confirmed that it no longer seeks to defend its fourth reason for refusal relating to sustainable energy performance measures as the related requirement of Policy DE1 of the LP would be met through compliance with the Building Regulations as indicated by the appellant. Based upon the evidence before me, there would be no conflict with the development plan in that respect and accordingly, as the matter is no longer in dispute, I do not include it within the main issues of this appeal.
4. The revised National Planning Policy Framework (the Framework) was published on 19 February 2019, which was also after the Council's decision but before the appeal was made. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication and I determine the appeal accordingly.
5. During the appeal, the appellant has provided a revised proposed roof plan and streetscape (drg.no. D1986-04 Rev D). Having reviewed the differences between it and drg.no. D1986-04 Rev C upon which the Council made its

decision - the revised plan does not appear to materially alter the proposal. Consequently, there would be no prejudice to interested people if I were to take the revised plan into account and I determine the appeal accordingly.

Main Issues

6. The main issues of the appeal are:

- The effect on the Thames Basin Heaths Special Protection Area (SPA);
- The effect on the character and appearance of the area, including trees protected by Tree Preservation Order;
- The effect on the living conditions of occupiers of neighbouring properties, with particular regard to 6 Pirbright Road and matters of privacy, and;
- Whether the development would provide for suitable drainage arrangements.

Reasons

Effect upon the Thames Basin Heaths SPA

7. The appeal site lies within 5 km of the boundary of the Thames Basin Heath SPA (Ash to Brookwood Heaths Site of Special Scientific Interest), which is an internationally designated site of nature conservation importance, with special reference to internationally important bird species; woodlark, nightjar and Dartford warbler. The proposal would result in the net addition of a dwelling and therefore, an increased population close to the SPA with the associated potential for increased recreation pressure. The proposal is not directly connected with, or necessary for, the management of the protected sites and, in combination with other projects across the area, could be likely to have a significant effect on the SPA due to the cumulative increased population nearby. In such circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require that an Appropriate Assessment is carried out.
8. With regard to the above, the SPA supports populations of internationally important bird species, which are susceptible to predation and disturbance. The additional dwelling proposed, whilst minimal on its own, would contribute to an increased population in combination with other plans, projects and developments in the area. Given the proximity of the development to the SPA, it is likely that this increase in population will lead to an increase in visitor and recreational pressure within the SPA. Given the susceptibility and vulnerability of the qualifying features of the SPA to such use, it cannot be concluded that the development will not adversely affect the integrity of the protected site when taken in combination with other projects.
9. The Thames Basin Heaths SPA Avoidance and Mitigation Strategy is in place to provide the possibility of opportunities to avoid or mitigate the adverse effects. This is through provision of alternative recreational space to attract and divert people away from the SPA and access management measures within the SPA. In that respect, the Avoidance and Mitigation Strategy has the potential to demonstrate adequate avoidance or mitigation of significant adverse effects due to recreational pressure on the SPA. To achieve such avoidance and mitigation it seeks financial contributions from development to contribute

- towards alternative space (Suitable Alternative Natural Greenspace) and management measures (Strategic Access Management and Monitoring).
10. The appellant had initially indicated a willingness to provide a planning obligation to make a financial contribution toward what he considered to be appropriate mitigation as part of the appeal. However, it was subsequently confirmed that no such agreement or mechanism is now being progressed. Without such mitigation in place, I cannot conclude that the development would not have an adverse impact on the integrity of the SPA. No alternative solutions to avoid an adverse effect, or provide mitigation or compensation, have been provided. Therefore, the Habitats Regulations states that 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 an additional dwelling to represent such an overriding public interest in this case.
 11. I, therefore, conclude that the proposal would have a harmful effect on the Thames Basin Heaths SPA, when taken in combination with other plans and projects. The proposal, therefore, conflicts with Policies NE1 and NE4 of the LP and Saved Policy NRM6 of the South East Plan 2009, as supported by the Habitats Regulations and consistent with the Framework. Taken together, these require the safeguarding of international, national and local designated sites, priority habitats and species.

Character and appearance

12. The appeal site comprises land at the corner of Church Avenue and Pirbright Road that is currently within the residential curtilage of 6 Church Avenue and consists of an outbuilding of modest height and an outdoor seating area, together with a single storey side extension that is to be removed. The site narrows towards the corner due to the alignment of 6 Pirbright Road and its shared boundary. The frontage of the site is characterised by a line of trees alongside Church Avenue and the junction which sit behind a low boundary wall with supplementary close boarded fencing within the site. A tall boundary hedge also currently separates the neighbouring 6 Pirbright Road.
13. The existing trees within the site make an important contribution to the verdant character of the area, particularly along the Church Avenue frontage. An Arboricultural Planning Integration Report provided by the appellant and accompanied by a Tree Protection Plan, identifies the presence of five mature trees within the site (two sweet chestnut, a sycamore and two robinia – also known as false acacia) and a leylandii hedge. The five trees are protected by Tree Preservation Order (435A) which denotes the sweet chestnut tree closest to the junction with Pirbright Road as T33, with the remaining sweet chestnut, sycamore and the two robinia trees identified as within G11. The appellant's report indicates that the trees would be retained through the use of protective fencing with lateral pruning by 2m to the east of their crown spread, and that only the leylandii hedge would be removed.
14. Notwithstanding the above, to my mind, it is reasonable that the siting of the proposed dwelling and its attached garage would require deeper excavations, including for foundations, than those which may have been required for the existing outbuilding and seating area that would be replaced closest to the trees and the existing boundary walls and fencing. The footprint of the proposed building includes a significant section of the root protection area (RPA) of T33 as indicated on the Tree Protection Plan, together with lesser

sections of its crown spread. Whilst a zone of ground protection and tree protection fences are shown beyond the footprint of the proposed dwelling and garage, there is no specific evidence to demonstrate that suitable engineering measures to construct the building within the RPA, including any foundations, would be feasible whilst protecting the health and longevity of the TPO tree. In such circumstances, I find that the siting of the building would be likely to be detrimental to the long-term health of the TPO tree, particularly as protection of its roots within the site should be prioritised given the existing constraints of the boundary wall and Church Avenue / Pirbright Road highway infrastructure to other aspects.

15. The sweet chestnut tree (T33) is a mature tree with no notable defects that offers high visual amenity to the site due to its size, form, height and prominence from public vantage points and would likely be susceptible to development impacts. The likely harm to and possible loss of the tree as a result of the development would have a considerable impact upon the verdant character of the Church Avenue frontage in a prominent corner position at the junction with Pirbright Road, along which the verdant character continues along frontages behind boundary treatments. The development, therefore, would have the potential to cause significant harm to the character and appearance of the area given that there is no evidence before me that the protected tree would be otherwise unlikely to survive on site for many years. The constrained separation distances between the building and the boundaries of the site would limit the potential for suitable replacements along the site frontage if T33 were to be removed or lost.
16. The removal of the leylandii hedge adjoining 6 Pirbright Road of itself would not have as significant effect on the character and appearance of the street scene. Nonetheless, when taken together, with the potential loss of T33 as a result of the development it would draw attention to the presence of the proposed dwelling. The varied architectural style, scale, proportions and materials of buildings in the surroundings along Church Avenue, as it transitions to a predominantly residential area beyond the Farnborough College of Technology and the University Centre Farnborough, offers a potential opportunity for a dwelling with a modern and contemporary design. However, the introduction of such a dwelling in a corner position as proposed would considerably reduce the existing space between the two storey properties and would project forward of the main front building line of 6 Pirbright Road with a different alignment.
17. The dwelling and its garage section would replace a more modest outbuilding towards the narrowest part of the site. As a result, a perception of a significant reduction in spacing of built form between 6 Church Avenue and 6 Pirbright Road would, therefore, arise despite a gradual reduction in land levels towards the corner and the reduced scale and proportions of the garage section relative to the two storey element of the dwelling. The absence of existing hedge screening along the shared boundary would also draw attention to the new dwelling and the projection of its garage section beyond the main building line of 6 Pirbright Road making it more conspicuous.
18. The presence and prominence of the dwelling including its footprint and proportions in a confined parcel of land would, thereby, undermine the characteristic verdant appearance and spaciousness of the corner plot. The close visual relationship of the proposed dwelling with the neighbouring properties would also emphasise the contrasting roof form of the two-storey

section of the proposal relative to those surrounding. The new dwelling, therefore, would be viewed as an incongruous and overly cramped addition to the street scene in a prominent corner position and would exacerbate the harm to the character and appearance of the street scene associated with any potential harm to or loss of the TPO tree - T33.

19. In reaching the above findings, I have taken into account that there are examples of narrow side spacing between two storey detached properties along the nearby sections of Church Avenue and Pirbright Road. However, those relationships do not replicate the harm I have identified in terms of the cramped form of development on a corner plot that would arise from the proposal. I did observe examples of more varied plot sizes and property styles on corner plots in the wider area including some close relationships of properties. However, the circumstances which led to those developments are not before me and in any case, they have little influence upon the character of the site and its immediate surroundings. Consequently, the presence of those developments does not justify the harm that would arise from the proposal.
20. Based upon the evidence before me and observations during my visit, the tree protection measures suggested for the remaining sweet chestnut, sycamore and two robinia trees identified as G11 in the TPO, together with the reduction of their crown spread and appropriate construction measures for any surfacing of a driveway within the RPA would be achievable without causing a significant impact upon the health and longevity of those trees. In reaching that view, I observed that they are mature specimens with no notable defects and that there is already a boundary fence within the RPAs.
21. Notwithstanding the above, the close relationship of the front elevation of the two storey section of the dwelling to the TPO trees, even following the reduction in crown spread, would emphasise the cramped nature of the plot and would inevitably lead to pressure to continue to prune the trees should they grow, or even to remove them in the future to improve the light and outlook for facing habitable rooms of the dwelling. The future relationship of the dwelling with trees that are proposed to be retained along the Church Avenue frontage, therefore, adds to my concerns with respect to the harm to the character and appearance of the area that could arise.
22. Having regard to all of the above, I conclude that the development would result in significant harm to the character and appearance of the area, including a potential adverse impact upon trees protected by Tree Preservation Order. The proposal, therefore, conflicts with Policies DE1, DE11 and NE3 of the LP. The policies, when taken together and amongst other things, require new development to improve the quality of the built environment including high quality design that respects the character and appearance of the local area, takes account of established and adjacent building lines, scale, massing, layout and the street scene, and will not permit adverse effects on existing trees worthy of protection. The policies are consistent with the Framework.

Living conditions – occupiers of neighbouring properties

23. The proposed dwelling has been carefully designed to ensure a satisfactory relationship with surrounding properties. This is reflected in the similar front building line, alignment and reduced depth relative to 6 Church Avenue and the inclusion in the facing side elevation of only windows serving non-habitable rooms. As a consequence, the relationship of the proposed dwelling with

- 6 Church Avenue would be suitable with no associated harm to the living conditions of occupiers of either properties in terms of outlook, light or privacy.
24. The Council's concerns relate specifically to the relationship with 6 Pirbright Road and matters of privacy. In that respect, the different alignment of the building lines of the property would ensure that the only direct relationship between the habitable windows of the proposed development would be with the side windows of 6 Pirbright Road. In that regard, the provision of an appropriate boundary treatment would prevent any direct overlooking between the ground floor windows following the removal of the hedge, whilst there is only a high level window in the first floor side elevation of 6 Pirbright Road which would prevent any direct overlooking between the upper floors of the properties or the rear garden of the proposed dwelling.
25. The siting of the proposed dwelling and its different alignment would result in some opportunities for the rear garden of 6 Pirbright Road to be overlooked in the space between that property and 6 Church Avenue. However, on balance, I find that the relationship would not result in a perception of a harmful loss of privacy for users of the rear garden of the neighbouring property. In reaching that view, I have taken account of the reduced rear projection of the proposed dwelling relative to 6 Church Avenue and that any outlook towards the section of rear garden closest to the rear elevation of 6 Pirbright Road would be screened by the position of that latter property. The separation distance to all other surrounding properties would be more distant and therefore, would be sufficient to preserve the living conditions of their occupiers in terms of outlook, light and privacy.
26. Having regard to all of the above, I conclude that the development would not have a harmful effect on the living conditions of occupiers of neighbouring properties. The proposal, therefore, would not conflict with Policy DE1 of the LP in so far as it seeks that no harm is caused to the occupiers of the proposal or existing or adjacent users by reason of loss of light, privacy or outlook.

Drainage

27. The appeal site is located within Flood Zone 1 which reflects a low annual probability of flooding (land having a less than 1 in 1 000 annual probability), where development is appropriate from a flood risk perspective as indicated in the Flood Risk Vulnerability Classification (Table 3) in Planning Practice Guidance¹. The proposed development intends to utilise soakaway drainage and connections to an existing surface water sewer.
28. With regard to the above, the proposal does not fall within the definition of major development so as to fall within the requirements of paragraph 165 of the Framework in terms of the incorporation of sustainable drainage systems. Nonetheless, Policy NE8 of the LP requires the implementation of integrated and maintainable SuDS in all flood zones for both brownfield and greenfield sites. Based upon the evidence before me and observations during my site visit, I am satisfied that a suitable form of drainage in accordance with SuDS techniques could be achieved so as to not increase the risk of flooding within the site or elsewhere. In that respect, a condition could be imposed to secure

¹ Planning Practice Guidance – Flood risk and coastal change, Paragraph: 067 Reference ID: 7-067-20140306
Revision date: 06 03 2014.

full details of the drainage strategy to be submitted to and agreed with the Council if the appeal were to be allowed.

29. I conclude that the development would be capable of achieving suitable arrangements for surface water drainage, so as not to increase the risk of flooding within the site or elsewhere. The proposal, therefore, would not conflict with Policy NE8 of the LP or the Framework in that respect.

Other Matters

30. The dwelling would make a positive contribution to housing in an accessible location. Nonetheless, the benefits of the contribution to meeting the housing requirements of Rushmoor, whilst supporting local services, businesses and the employment market including during construction, would be limited by the scale of development proposed.
31. The development could provide for a satisfactory living environment for future residents including suitable internal living space and adequate amenity space. In addition, the dwelling would utilise an existing access at 6 Church Avenue which would be a safe and acceptable highway solution for the limited increase in traffic and parking demand that would arise from the proposal, provided that an appropriate new access were to be formed for the adjacent dwelling. Furthermore, adequate parking would be provided within the site. Consequently, the development would not have a detrimental impact upon highway safety. Nevertheless, the absence of concern in each of those respects is a neutral factor which does not weigh in favour of the development.

Conclusion

32. I have found no harm in terms of the main issues relating to the living conditions of occupiers of neighbouring properties and drainage arrangements, together with other matters such as energy efficiency, the living environment for future residents and highway safety. However, the absence of harm in those respects and the benefits associated with an additional dwelling does not justify the potential for a harmful effect on the Thames Basin Heaths Special Protection Area (SPA) and the harm that would arise to the character and appearance of the area, including protected trees. The harm in each of those respects is decisive upon the outcome of this appeal and reflects conflict with the development plan and the Framework that is significant and overriding.
33. For the reasons given above and taking all other matters into consideration, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR