

Appeal Decision

Site visits made on 1 August 2019 and 13 September 2019

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

an Inspector appointed by the Secretary of State

Decision date: 03 October 2019

Appeal Ref: APP/P1750/W/18/3217534

115-117 Farnborough Road, Farnborough GU14 7JG

- 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 Pinehurst Investments Ltd against the decision of Rushmoor Borough Council.
 - The application Ref 18/00466/FULPP, dated 18 June 2018, was refused by notice dated 9 November 2018.
 - The development proposed is erection of extensions and alterations to existing office building (Use Class B1) to facilitate conversion and change of use to residential use (Use Class C3) to provide 113 flats (comprising 7 X studio, 52 X 1-bedroom, 52 X 2-bedroom and 2 X 3-bedroom units); retention/provision of 199 on-site parking spaces and use of existing vehicular access to Farnborough Road; and landscaping including creation of new landscaped podium amenity courtyard.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of extensions and alterations to existing office building (Use Class B1) to facilitate conversion and change of use to residential use (Use Class C3) to provide 113 flats (comprising 7 X studio, 52 X 1-bedroom, 52 X 2-bedroom and 2 X 3-bedroom units); retention/provision of 199 on-site parking spaces and use of existing vehicular access to Farnborough Road; and landscaping including creation of new landscaped podium amenity courtyard at 115-117 Farnborough Road, Farnborough GU14 7JG in accordance with the terms of the application, Ref 18/00466/FULPP, dated 18 June 2018, subject to the attached Schedule of Conditions.

Procedural Matters

2. I note that the Rushmoor Local Plan 2014-2032 Adopted February 2019 (LP) was adopted since the Council's decision notice was issued. I have therefore made my determination having regard to the LP rather than the former development plan policies cited in the Council's reasons for refusal.
3. The description of development was changed by the Council and was accepted by the appellant. I have therefore taken the description above from the decision notice. I note that there is a discrepancy between the appeal form and decision notice regarding the number of proposed parking spaces. From the evidence before me the Council determined the application based on the number in the decision notice and I have assessed the proposal on this basis.

Main Issues

4. While I note that there are four reasons for refusal, from the evidence before me the main issues are:
- the effect of the proposed development on the living conditions of the occupiers of The Convent 115 Farnborough Road (The Convent) with particular regard to privacy and outlook;
 - the effect of the proposed development on Thames Basin Heaths Special Protection Area (SPA); and
 - whether the proposal makes adequate provision for any additional need for public open space and transport infrastructure arising from the development.

Reasons

Living conditions

5. The appeal scheme proposes extensions to and conversion of an existing disused office building, known as Pinehurst House, to residential dwellings. The existing building is situated to the rear of a residential development known as The Convent. Pinehurst House and The Convent were formerly attached by a first-floor corridor bridge link at a time when both were in office use. At the closest point the two buildings are separated by around 4m, however, the separation gap is generally roughly 6m for the southern side of The Convent.
6. The proposals include the removal of overhanging eaves and the addition of three storeys of accommodation. With regard to privacy, from the evidence before me, the eastern wall of the upper ground floor and first floor of Pinehurst House which faces and is closest to The Convent, currently has extensive glazing. The proposal would alter this façade to a solid wall with windows with obscured glazing to the habitable rooms and partially obscured oriel windows to the bedrooms that would direct views away from The Convent. Therefore, while the separation distance would remain unchanged, the proposed windows at ground and first floors would not result in undue breach of privacy.
7. The second, third and fourth floor windows of the eastern elevation of the proposal that would face The Convent would be a substantial distance away from the adjacent building. Moreover, the windows on these floors of this elevation would also be either obscured or partially obscured oriel windows that would direct views away from The Convent such that there would not be undue overlooking to this adjacent building. While I acknowledge the reference to perceived overlooking in the decision notice, given the limited number of windows on the east elevation closest to The Convent, there would not be adverse effects in this regard.
8. While there would be areas of flat roof that would face The Convent, these would not be accessible by future occupiers. There would be balconies and terraces on the north and south elevations towards the eastern side of the building. However, tall modesty screens would obstruct views to The Convent such that no undue overlooking would occur.

9. Turning my attention to outlook, the proposed scheme would generally utilise the existing footprint such that the separation distance between the proposal and The Convent would remain unaltered. The external walls of the ground and first storeys of the east elevation of the proposal would remain in a similar position to the existing building and the proposed second storey would largely occupy the existing roof void which would be removed. Therefore, in terms of mass, the proposal at ground, first and second floor would not be significantly different to the existing Pinehurst House and would not detrimentally affect the outlook from The Convent.
10. The proposed third and fourth floors would be significantly set back from the edge of the building such that only a limited portion of these additional storeys would be visible from the ground floor flats of The Convent. Therefore, the living conditions of the occupiers of the ground floor flats on the southern side of The Convent would not be adversely affected by the proposal in terms of outlook.
11. The rear facing windows of the first-floor flats on the southern side of The Convent look out across the first floor and roof of Pinehurst House. The proposed third and fourth storeys of the proposed development would be more visible from these flats than the ground floor flats. However, these storeys would be set back from the edge of the building and the separation distance would be significant. Moreover, the rear-facing first floor windows of The Convent are of a significant height such that while the additional floors would be visible, the proposal would not have an overbearing effect on the occupiers. Therefore, the living conditions of the occupiers of these flats would not be unduly affected in terms of outlook as a result.
12. The windows of the second-floor flats on the southern side of The Convent look out over the roof of Pinehurst House. While the proposed additional floors of the proposal would be visible from these windows, they would be set a significant distance away from The Convent such that the proposal would not appear overbearing. Furthermore, the green roofs of the terraces that face The Convent would soften the effect of the additional storeys. The dormer windows of both of the third-floor flats look out over the roof of Pinehurst House. While the proposal would be visible from these windows, the proposed additional floors would be at a lower level and a significant distance away such that the outlook from these windows would not be unduly affected by the proposal.
13. The flats on the northern side of The Convent are generally a significant distance from Pinehurst House such that they would be less affected by the proposal than the flats on the southern side. Moreover, the part of the proposal closest to The Convent would not be directly opposite these flats, such that while the additional storeys closest to the building would be visible, it would not appear overbearing from these properties. In addition, the proposed green roofs and landscaping would soften the effect of the proposal when viewed from these windows.
14. I acknowledge concerns regarding the change of use of Pinehurst House from office to residential use. While the office would have been occupied primarily during working hours on weekdays, compared with the proposed residential use that would result in permanent occupation of the building, given that

privacy and outlook would not be unduly affected by the proposal for the reasons given above, there would not be adverse effects in this respect.

15. Consequently, the proposed development would not harm the living conditions of the occupiers of The Convent with particular regard to privacy and outlook. Therefore, the proposal would not conflict with LP Policy DE1 which seeks developments that would not cause harm to the proposed, existing and/or adjacent users by reason of loss of privacy or outlook. It would also not conflict with the National Planning Policy Framework (Framework) in this regard.

SPA

16. The appeal scheme proposes up to 113 dwellings on a site that lies within 5km of the SPA. New housing development within this proximity of the SPA would be likely to increase the number of recreational visitors to the site, potentially resulting in disturbance to the integrity of the habitat.
17. Given the number of proposed dwellings, the likely effects on the SPA from the proposed development may be significant. Moreover, in combination with other developments it is likely that the proposal would have significant effects on the SPA. Consequently, an Appropriate Assessment is necessary to ascertain the implications for the site.

Appropriate Assessment

18. The SPA is a network of heathland sites which are designated for their ability to provide a habitat for the internationally important bird species of woodlark, nightjar and Dartford warbler.
19. The Thames Basin Heaths Special Protection Area Avoidance and Mitigation Strategy 2017 (November 2017 – updated from July 2014) (SPA Strategy) sets out the Council's approach to avoid harm to the SPA arising from additional residential developments. This involves the provision of Suitable Alternative Natural Greenspace (SANG) in order to divert additional recreational pressure away from the SPA, and the provision of a range of Strategic Access Management and Monitoring measures (SAMM) to avoid displacing visitors from one part of the SPA to another, and to minimize the impact of visitors on the SPA. Natural England (NE) has no objection to the proposal subject to the provision of financial contributions required through the SPA Strategy.
20. The appellant has provided a letter from the Council confirming that an allocation of SANG has been secured at Bramshot Farm in respect of the proposed development through the payment of a sum of money.
21. As part of the appeal the appellant provided a signed and dated agreement under Section 106 of the Town and Country Planning Act 1990 (S106) between themselves and the Council that would result in financial contributions toward the SAMM at Bramshot Farm. The SAMM project among other things promotes the SANG as new recreational opportunities for local people and particularly encourage their use during the breeding bird season and provides an SPA-wide education programme.
22. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably

related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations (CIL Regulation 122). As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.

23. Consequently, the proposal would not adversely affect the integrity of the SPA. Therefore, it would accord with LP Policies NE1 and NE4 which relate to the SPA and biodiversity.

Public open space and transport infrastructure

24. Paragraph 56 of the Framework and CIL Regulation 122 require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
25. The appellant has submitted a signed and completed S106 legal agreement which covers the SAMM contribution as detailed above, a public open space contribution, a transport contribution and a clause regarding affordable housing.
26. The S106 requires the appellant to make a financial contribution of £192,575.00 towards the provision of off-site public open space comprising a number of improvements at King George V Playing Fields including the playground and sports pitch which is less than a mile from the appeal site. From the evidence before me the contribution is in line with the Interim Advice Note Financial Contributions for Open Space in Association with New Housing Development (Interim Advice Note). All new housing development brings about demand for public open space facilities therefore given the number of dwellings proposed I am satisfied that the proposed contribution would be necessary to make the development acceptable in planning terms.
27. With regard to the Transport Contribution, the S106 also requires the appellant to make a financial contribution of £49,343.90 Index Linked towards cycle links from the site to Farnborough town centre as well as a Travel Plan Approval Fee and Travel Plan Monitoring Fee related to the measures set out in The Framework Travel Plan and a Travel Plan Bond. The Framework Travel Plan represents a long-term strategy for reducing the dependence of residents on single occupancy private car travel.
28. While I note that there would be an overall reduction in trips associated with the site, given the number of residential units proposed, it is likely that the change of use would result in an increase in the number of people cycling to and from the site including during hours of darkness. Moreover, given the heavily trafficked nature of the A325 and that the site currently does not include any direct link to the existing cycle network, I consider that these contributions are justified and would meet the relevant tests.
29. The main parties are in agreement that an affordable housing contribution is not due. From the evidence before me including the Economic Viability Assessment dated May 2018, I have no reason to disagree. While not a reason for refusal, the Council has stated that a financial reassessment clause should be secured by the S106 that would ensure that the applicant/developer does not benefit from any improvement in the market value of the scheme that

could justify provision of affordable housing or an equivalent financial contribution in the event that completion of the proposed development were to be protracted. From the evidence before me I am satisfied that the S106 makes such a provision.

30. Given the scale and nature of the development, the delivery of public open space improvements and transport infrastructure is necessary to make the development acceptable in planning terms. The obligations in this respect in the S106 legal agreement are fairly and reasonably related to the achievement of those objectives. I am, therefore, satisfied that the obligations included in the S106 legal agreement meet the necessary tests and that they can be afforded weight. I am satisfied that the proposed financial contribution and the other requirements are necessary, directly related and fairly and reasonably related in scale and kind to the proposed development, in accordance with CIL Regulation 122. I have therefore also attached weight to them in reaching my decision.
31. Consequently, the proposal makes adequate provision for additional need for public open space and transport infrastructure arising from the development. Therefore, it would not conflict with the Interim Advice Note or LP Policy IN2 which relates to transport. It would accord with paragraph 56 of the Framework.

Other Matters

32. I note local concerns regarding highways safety and access for emergency vehicles as well as character and appearance, noise, disturbance, biodiversity and light. However, the Council raised no objections to the proposal in these respects and from the evidence before me I see no reason to disagree.
33. I also note comments regarding an alternative scheme being submitted to the Council. However, details of that scheme are not before me and in any event, each case must be determined on its own merits.
34. I acknowledge comments from the occupier of No 120 Farnborough Road (No 120) including those relating to overlooking from the east facing units towards this property. However, from the evidence before me, that property would be a significant distance from the proposal such that it would not result in undue breach of privacy to No 120.
35. I acknowledge concerns regarding the consultation process and the development management committee meeting. However, these are matters for the Council in the first instance and have not altered my overall decision.
36. While I understand that my decision will be disappointing for some local residents, from the information before me there is no substantive evidence to justify the dismissal of the appeal on the grounds of harm to living conditions or other related matters.

Conditions

37. I have considered the conditions suggested by the Council and made minor amendments having regard to the Planning Practice Guidance (PPG) and the tests set out in paragraph 55 of the Framework. I have amended some of the wording of the conditions in the interests of precision and clarity.

38. Given the allocation of the SANG and in accordance with the provisions of the SPA Strategy, a condition requiring the commencement of development within one year is necessary. A condition stating the approved drawings is necessary in the interests of certainty. However, I have omitted the reference to existing drawings and supporting documents as this is not necessary and have omitted reference to drawing Open Spaces Drawing No. OS 1495-17.1 as this is covered under the condition relating to the Arboricultural Impact Assessment (AIA). Similarly, drawing 170807-02 Rev A relates to works outside the site and is covered under the planning obligation and is therefore not necessary.
39. A condition relating to external materials is necessary to safeguard the character and appearance of the area. Conditions relating to underground services and communal aerial/satellite dish/fibre-optic system are also necessary to safeguard the character and appearance of the area.
40. In addition, conditions relating to landscaping and a landscape management plan are required to safeguard the character and appearance of the area. I have combined the landscaping conditions in the interests of brevity. The condition relating to the protection of existing trees is also necessary and I have omitted the reference to the root protection area as this is covered within the AIA mentioned in the condition. The conditions relating to landscaping and the protection of existing trees need to be pre-commencement as they are likely to affect the early stages of construction. Suggested conditions concerning changes to retained trees and a construction method statement relating to the roots of trees are not necessary as the amenity value of these trees would be adequately protected through the AIA.
41. I have not attached the suggested condition relating to hours of construction as this will be dealt within the condition relating to a Construction Method Statement.
42. A condition relating to boundary treatments is necessary to safeguard the living conditions of neighbouring occupiers. Conditions relating to a Construction Method Statement (CMS) and lighting are necessary to safeguard the living conditions of neighbouring occupiers and in the interests of highway safety. The condition relating to a CMS needs to be pre-commencement as it would affect the early stages of construction. Conditions relating to parking, bicycle and bin storage as well as cycleway connection are necessary in the interests of highway safety and certainty.
43. A condition relating to sustainable drainage is necessary in accordance with LP Policy NE8. Given the nature of the existing building a condition relating to contamination is necessary.
44. Conditions requiring compliance with the Ecological Appraisal and a biodiversity strategy and is necessary to safeguard wildlife. The condition relating to electric car charging points is necessary for environmental sustainability. Conditions relating to external noise and the use of the proposed gymnasium is necessary to safeguard the living environment of future occupiers as well as the living conditions of neighbouring occupiers.
45. Conditions relating to terraces, balconies and communal amenity space as well as obscure glazing and privacy screens are necessary to safeguard the living conditions of neighbouring occupiers and the living environment of future occupiers of the development.

46. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant confirmed that they agree to the pre-commencement conditions.

Conclusion

47. For the reasons given above the appeal should be allowed.

R Sabu

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 1 year from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: E17-005/SIT001 REV E, E17-005/PRP001 REV B, E17-005/PRP002 REV C, E17-005/PRP003 REV G, E17-005/PRP004 REV E, E17-005/PRP005 REV E, E17-005/PRP006 REV F, E17-005/PRP007 REV E, E17-005/PRP008 REV F, E17-005/PRE001 REV D, E17-005/PRE002 REV D, E17-005/PRE003 REV A, E17-005/PRS001 REV C, E17-005/PRS002 REV B, E17-005/PRS003 REV A, E17-005/DET001 and E17-005/DET002.
- 3) Notwithstanding any indication of materials which may have been given in the application, or in the absence of such information, construction of the following elements of the development hereby approved [the external walls, roofing materials, window frames/glazing, rainwater goods, and any new external hard-surfacing materials] shall not start until a schedule and/or samples of the materials to be used in them have been submitted to, and approved in writing by, the local planning authority. Those elements of the development shall be carried out using the materials so approved and thereafter retained.
- 4) Prior to occupation or use of the development hereby approved, screen and boundary walls, fences, hedges or other means of enclosure shall be installed in accordance with details to be first submitted to and approved in writing by the local planning authority. The boundary treatment shall be completed and retained in accordance with the details so approved.
- 5) The dwelling units hereby permitted shall not be occupied until the parking spaces, bicycle storage and bin storage areas shown on the approved plans have been constructed, surfaced and made available to occupiers of, and visitors to, the development; in the case of parking spaces in accordance with a scheme of allocation that has been submitted to and approved in writing by the local planning authority. Thereafter these facilities shall be kept available at all times for their intended purposes and allocation as shown on the approved plans. Furthermore, the parking spaces shall not be used at any time for the parking/storage of boats, caravans or trailers.
- 6) The dwelling units hereby permitted shall not be occupied until the cycleway connection to the west boundary of the site as shown on the approved plans have been completed and made available for use.
- 7) Provision shall be made for services to be placed underground. No overhead wire or cables or other form of overhead servicing shall be placed over or used in the development of the application site.
- 8) Prior to the first occupation of the flats hereby permitted, details for a communal aerial/satellite dish/fibre-optic system shall be submitted to and approved in writing by the local planning authority. The new flats hereby permitted shall not be occupied until the approved scheme has been installed and made operational.
- 9) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. All planting, seeding or turfing comprised in the approved

details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 10) Before the development is first occupied or brought into use a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.
- 11) No works shall start on site until existing trees and shrubs/hedges to be retained on and adjoining the site have been adequately protected from damage during site clearance and works in accordance with the details that are set out in the Open Spaces Arboricultural Impact Assessment Report Revision A received October 2018 and tree retention and removal plans hereby approved with the application.
- 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking and turning of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.
 - ix) programme of construction

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 13) Prior to first occupation of the development hereby approved details of all external lighting to be installed within the site and/or on the exterior of the building hereby permitted shall be submitted to and approved by the local planning authority. The submitted details shall indicate the purpose/requirement for the lighting proposed and specify the intensity, spread of illumination and means of controlling the spread of illumination (where appropriate). The external lighting proposals as may subsequently be approved shall be implemented solely in accordance with the approved details and retained thereafter. With the exception of lighting identified and agreed as being necessarily required solely for

maintaining the security of the site/building during night-time hours, no other external lighting shall be used/operated during night-time hours (2300 to 0700 hours daily) unless otherwise first agreed in writing by the local planning authority.

- 14) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - include a timetable for its implementation; and,
 - provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 15) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.
- 16) Site clearance and works to implement the permission hereby permitted shall be undertaken in accordance with the recommendations of the Open Spaces Preliminary Ecological Appraisal & Bat Survey Inspection Report dated October 2017 hereby approved.
- 17) Prior to first occupation of the development hereby approved, a biodiversity strategy will be submitted to and agreed by the local planning authority incorporating the following habitats and biodiversity enhancements:
- Heathland and acidic grassland green roofs
 - Flower rich habitat within the courtyard
 - At least 20 bird boxes including swift, sparrow and house martin boxes and boxes for common species
 - At least 10 bat boxes for crevice dwelling species

- A bird feeding station on every balcony and within the courtyard
- Bird baths within the courtyard and on appropriate balconies.

The development shall be carried out in accordance with the approved details.

- 18) No dwelling within the development hereby permitted shall be occupied until details of the provision of electric car charging points within the development has been submitted to and approved in writing by the local planning authority. The electric car charging point installation so approved shall subsequently be installed and made operational and available to occupiers of the development prior to the occupation of the first dwelling unit within the development.
- 19) The gymnasium to be provided within the development hereby permitted shall be used solely for purposes ancillary and incidental to the residential occupation of the development hereby approved.
- 20) The development hereby approved shall not be occupied until measures to protect occupiers of the approved development from external noise have been implemented in accordance with a scheme to include, for example, acoustic double-glazing and ventilation which has been first submitted to and approved in writing by the local planning authority.
- 21) Notwithstanding any indication which may have been given in the application, or in the absence of such information, the development hereby approved shall not be occupied until full details of the scheme for the provision of obscure glazing of windows, terrace balustrades and privacy screens within the development have been submitted to and approved in writing by the local planning authority. Those means and measures so approved shall subsequently be implemented in full prior to the first occupation of the dwelling units to which they relate and retained thereafter at all times.
- 22) Other than the identified amenity terraces and balconies shown on the approved plans allocated to specific dwelling units, the roof areas of the development hereby permitted shall not, at any time, be used as balcony, sitting-out, or amenity areas. Prior to the first occupation of the development the communal amenity space shall be provided, made available for use and thereafter retained for its designated purpose.

END OF SCHEDULE