



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: 7 October 2019

Appeal Ref: APP/R3650/W/19/3231847 50 Abbots Ride, Farnham GU9 8HZ

- 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 Mary Wise on behalf of Hadfields, Butt & Bowyer against the decision of Waverley Borough Council.
 - The application Ref WA/2018/1789, dated 25 September 2018, was refused by notice dated 4 January 2019.
 - The development proposed is erection of a detached dwelling with associated access, parking and landscaping following demolition of existing garage.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a detached dwelling with associated access, parking and landscaping following demolition of existing garage at 50 Abbots Ride, Farnham GU9 8HZ in accordance with the terms of the application, Ref WA/2018/1789, dated 25 September 2018, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. The revised National Planning Policy Framework (the Framework) was published on 19 February 2019, after the Council's decision but before the appeal was made. Policies within the Framework are material considerations taken into account for the purposes of decision-making from the date of its publication. As the parties had an opportunity to comment on the revised Framework during the appeal process, I determine the appeal accordingly.

Main Issues

3. The main issues of the appeal are:
 - The effect on the character and appearance of the area;
 - The effect on Ancient Woodland, and;
 - The effect on the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Character and appearance

4. The appeal site consists of 50 Abbots Ride (No 50), a detached bungalow with attached garage within a large plot that is located within the built up area boundary of Farnham as defined in the Farnham Neighbourhood Plan (NP),

made May 2017 and within the South Farnham (Waverley) area as identified in the Farnham Design Statement 2010.

5. The site of the proposed dwelling and the remainder of No 50 from which it would be subdivided are in a backland location behind the linear pattern of dwellings that front onto Abbots Ride. Three detached dwellings nearby (Nos 52, 54 and 56), consisting of two storey dwellings and a bungalow, are also arranged around a turning head and utilise a shared access that runs between the side boundaries of Nos 48 and 58. A further detached bungalow is located beyond the rear garden of No 54 and is accessed from Waverley Lane (B3001). The boundary landscaping of that latter property, together with those adjoining at No 52 and the site, provide a well-defined edge of residential curtilages relative to the adjacent agricultural land and woodland.
6. Abbots Ride, including the cul-de-sac where the site is located, consists of a mix of bungalows and two storey dwellings with variations in architectural style, scale, proportions and materials. In that respect, the assimilation of the difference in height of the dwelling relative to No 50 would be assisted by the gradual reduction in land levels from Abbots Ride which continues through the site in an eastern direction. As a result, the dwelling would have a lower slab level than No 50 and would also be viewed in the context of No 52 to the north, a two storey dwelling. The proposal in its backland location would also be viewed as part of a group with other dwellings of varied orientations that lie closer to Waverley Lane and to the east of the linear development that faces Abbots Ride which, together with the verdant nature of intervening boundary screening provided by trees and other landscaping, would ensure that the dwelling is well-screened with limited prominence from public vantage points.
7. With regard to the above, from the limited viewpoints that would be available, the dwelling would be a complementary addition to the grouping of surrounding dwellings. The proposed scale, height, form, bulk, massing, footprint and proportions of the two storey family dwelling in a set back position with hipped roof forms and complementary brick and clay tiles would assimilate with and respect the varied context and pattern of development in its immediate surroundings, subject to the imposition of a condition to agree samples of the materials. Furthermore, the established screening could be supplemented by additional landscaping and boundary treatments secured by condition. Those features would help to soften the appearance of the increase in hardstanding required to form the new driveway access and parking area within the site and would adequately replace the limited number of ornamental trees that are proposed to be removed or could be affected along the boundary with No 52, which would prevent any harmful effect on the character and appearance of the area. The removal of a flat roofed garage at the side of No 50 and a timber outbuilding towards the boundary with No 52 to provide the access would not harm the character and appearance of that dwelling or the surrounding area as those buildings are of limited architectural merit.
8. There are no policies before me in either the Waverley Borough Local Plan - Part 1, strategic policies and sites (Local Plan - Part 1), adopted February 2018, the Waverley Borough Local Plan 2002 (as retained February 2018) or the NP that seek to specifically resist the development of residential gardens. However, the development would involve the subdivision of the existing large residential curtilage of No 50 which the design guidelines for South Farnham (Waverley) in the Farnham Design Guide indicates should be avoided if it is

considered to result in a detrimental impact on the existing character of the area. Nonetheless, to my mind, in the particular circumstances of the site and its surroundings, a detrimental impact upon the character of the area would not occur. The resultant residential curtilages of No 50 and the proposed dwelling would consist of plot sizes that would be proportionate, spacious and broadly consistent with the density and spacing of the mix of properties in the area.

9. Having regard to all of the above, I conclude that the development would not harm the character and appearance of the area. The proposal, therefore, would not conflict with Policy TD1 of the Local Plan - Part 1, Policies D1 and D4 of the Local Plan 2002 and Policy FNP1 of the NP, together with the associated guidance in the Farnham Design Statement 2010. The policies, when taken together and amongst other things, seek new development of high quality and inclusive design that responds to the distinctive local character of the area in which it is located including taking account of design guidance and factors such as height, scale, density, layout, orientation, design, materials and landscaping. The policies are consistent with the design objectives of the Framework to which the proposal would also accord.

Effect on Ancient Woodland

10. The section of the appeal site where the proposed dwelling would be located immediately adjoins a woodland area to the south and south-west that is designated as Ancient Woodland, and includes mature oak trees positioned in relatively close proximity to the existing boundary fence. Natural England and Forestry Commission guidance (known as standing advice) has been drawn to my attention with respect to Ancient Woodland and the application of buffer zones relative to development.
11. The guidance states that the purpose of the buffer zone is *"to protect ancient woodland and individual ancient or veteran trees"* and that *"the size and type of buffer zone should vary depending on the scale, type and impact of the development"*. The guidance also states that *"For ancient woodlands, you should have a buffer zone of at least 15 metres to avoid root damage"*, that *"a buffer zone around an ancient or veteran tree should be at least 15 times larger than the diameter of the tree"* and *"the buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter"*. The guidance also suggests that *"you should avoid including gardens in buffer zones"*. The specific reasoning for the 15m distance is not explained in the guidance, but I note that it accords with the maximum radius for root protection areas (RPAs) based on single stem diameters as set out in Annex D of BS 5837:2012 'Trees in relation to design, demolition and construction – Recommendations'.
12. The appellant has provided a Tree Report and Addendum Statement given that a significant section of the southern part of the site, including the existing garden of No 50 and its boundary fence, lies within 15 metres of the boundary of the ancient woodland and within 15m of the stem of three of the mature oak trees. However, based upon that evidence and my observations, it is evident that the dwelling would be located a significant distance from the RPA of each tree as calculated in accordance with BS 5837:2012 and more than 5m beyond the edge of each tree canopy. I am, therefore, satisfied that the construction of the dwelling would be feasible so as not to result in the loss or deterioration of irreplaceable habitats (in this case, the health and longevity of neighbouring

trees within the designated Ancient Woodland), provided that the implementation of tree protection measures set out in the Tree Report such as protective fencing around the RPAs of trees along the south western boundary are secured by condition.

13. In reaching the above view, I have taken into account that the proposal would not accord with the Natural England and Forestry Commission guidance insofar as it would be within 15m of the boundary of the Ancient Woodland and part of its garden and boundary fencing would be within the RPA of two of the mature oak trees that have canopy spreads that partly overhang the site at its southern corner. However, based upon the evidence and my observations, as the dwelling itself would be some distance from RPAs and canopy spreads of the individual trees in the Ancient Woodland, the resultant effect of the proposal would be little different to the arrangements of the existing curtilage of No 50. The section of the garden area closest to the Ancient Woodland has already been subject to significant activity associated with the residential use of No 50 including the presence of existing hardstanding and boundary fencing within the RPAs of the aforementioned trees, together with the presence of sheds and greenhouses in that area that lie upon the hardstanding.
14. With regard to the above, the proposal offers an opportunity to remove permitted development rights for extensions, outbuildings, boundary treatments and hard surfaces within the site to necessarily provide a greater degree of control upon any future development in sensitive locations close to the Ancient Woodland. Furthermore, the tree protection measures for retained trees to be conditioned, includes a method of sensitive removal of the existing hardstanding to improve root conditions, together with the replacement of boundary fencing, as set out in the Arboricultural Method Statement in the Tree Report and drg.no. PRI21833-03 which would restrict the use of plant machinery within the RPAs. Those factors weigh in favour of the development, given the potential benefits to the health and longevity of the neighbouring trees within the Ancient Woodland in the particular circumstances of this site.
15. Indirect impacts on the Ancient Woodland such as light pollution that could affect associated biodiversity can be suitably mitigated by a condition to control the use of external lighting within the site. Furthermore, I am satisfied that the potential for damaging indirect activities such as fly tipping and the impact of domestic pets would not be demonstrably increased. I reach that view when taking into account that the site where the dwelling would be located has already been used intensively as part of the residential curtilage of No 50 and that the Ancient Woodland also adjoins the boundaries of a number of other properties that face Abbots Ride.
16. Having regard to all of the above and the particular circumstances of this case, I conclude that the development would not have a harmful effect upon or result in the deterioration or loss of Ancient Woodland, subject to the imposition of conditions. The proposal, therefore, does not conflict with Policy NE2 of the Local Plan Part 1, Policies D6 and D7 of the Local Plan 2002 or paragraph 175 of the Framework. The absence of harm and compliance with the development plan and the relevant parts of the Framework in this case outweigh the conflict with the guidance provided in the form of standing advice from Natural England and the Forestry Commission to which Planning Practice Guidance refers.

Effect on the Thames Basin Heaths SPA

17. The appeal site lies within the 5km buffer zone of the Thames Basin Heaths SPA, which is an internationally designated site of nature conservation importance, with special reference to internationally rare bird species namely Nightjar, Woodlark and Dartford Warbler. The proposal results in the net addition of a dwelling and therefore, would increase the population in the 5km vicinity of 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 therefore, in combination with other projects across the area, could have a significant effect on the sites arising from the cumulative increase in population nearby. In such circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require that an Appropriate Assessment is carried out.
18. The SPA qualifies for such protection as it supports populations of internationally rare 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 its contribution to the increase in population could 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 would not adversely affect the integrity of the protected sites in combination with other projects.
19. The Waverley Borough Council Thames Basin Heaths SPA Avoidance Strategy (July 2016) is in place to provide the possibility of opportunities to avoid or mitigate the potential for the aforementioned adverse effects. This is through provision of alternative recreational space to attract and divert people away from the SPA, together with 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 mitigation it seeks financial contributions from development to contribute towards the alternative space (Suitable Alternative Natural Greenspace - SANG) and management measures (Strategic Access Management and Monitoring - SAMM).
20. A planning obligation made by Unilateral Undertaking under Section 106 of the Planning Act, signed and dated 28 March 2019, provides for the appropriate contribution to be made in accordance with the Avoidance Strategy, including towards a SANG at Farnham Park and towards SAMM. The contributions would be necessary to make the development acceptable in planning terms; directly relate to the development; and are fairly and reasonably related in scale and kind to the development. Furthermore, with the planning obligation in place, I consider that the effects of this proposal on the SPA would be sufficiently mitigated so that no harm to its integrity would result.
21. I conclude that the development would not have a harmful effect on the Thames Basin Heaths SPA. The proposal would not conflict with Policies NE1 and NE3 of the Local Plan - Part 1, saved policy NRM6 of the South East Plan 2009 or Policies FNP12 and FNP13 of the NP, as supported by the Habitats Regulations and consistent with the Framework. Taken together, the policies require the safeguarding of international, national and local designated sites.

Other Matters

22. The effect on highway and pedestrian safety is not a matter contested by the Council and no concerns have been expressed with respect to access for construction or emergency vehicles. Based upon my observations I have no reason to take a different view. The dwelling would share an existing access from Abbots Ride with a driveway at the side of No 50 which would be a safe and acceptable highway solution for the limited increase in traffic and parking demand that would arise from the proposal. Furthermore, adequate parking would be provided within the site for the dwelling and space for cycles, together with sufficient parking space at the front of No 50 to serve that property. Whilst concerns have been raised by interested parties regarding the absence of a footway along the unlit shared access road, I observed it to be of an adequate width to allow vehicles and pedestrians to pass each other without potential conflict and there is no evidence before me of any previous accidents having occurred as a result of its use. Consequently, I find that the addition of the limited traffic movements associated with a further dwelling would not have a detrimental impact upon highway or pedestrian safety.
23. The development would provide for a satisfactory living environment for future residents including suitable internal living space and adequate amenity space. Furthermore, the proposed dwelling has been carefully designed to ensure a satisfactory relationship with surrounding properties. Consequently, subject to conditions to limit overlooking by preventing the insertion of first floor windows in the side elevation facing No 52 and to add landscaping along the shared boundaries with No 50 and 52, it would have adequate separation to surrounding properties to preserve the living conditions of their occupiers in terms of outlook, light and privacy. I am also satisfied that the limited vehicle movements associated with the use of the new driveway would not result in significant noise and disturbance for occupiers of the nearest neighbouring dwellings at No 50 or No 52. Whilst land ownership issues have been raised, they are a private matter between the relevant parties that are not within my jurisdiction, and therefore, not reason to withhold planning permission.
24. The proposal indicates that drainage would be achieved by connecting to a main sewer. Whilst interested parties have expressed concerns about the feasibility of such works, I am satisfied that a suitable form of drainage could be achieved so as to not increase the risk of flooding within the site or elsewhere, and would be practicable without causing harm to the Ancient Woodland. In that respect, a condition can be imposed to secure full details of the drainage and service works to be submitted to and agreed by the Council.
25. Interested parties have referred to a previous refusal of planning permission (ref: FAR/503/73) in 1973 at the site and a more recent Council decision in the wider area (WA/2017/1894) to refuse planning permission for a proposal that included a net additional dwelling. However, the full details of those schemes are not before me and I cannot be sure that they represented a direct parallel to the appeal proposal. In any case, I have necessarily considered the proposal on its own merits based upon the evidence before me, my observations and relative to the current development plan and national policy. Whilst interested parties have also expressed concerns that the proposal would set a precedent for other similar developments, each application and appeal must be determined on its own merits and a generalised concern of this nature does not justify withholding permission in this case.

Conditions

26. I have had regard to the planning conditions that have been suggested by the Council. Where necessary, I have reordered the conditions and amended the wording to ensure consistency with paragraph 55 of the Framework. Conditions 1 and 2 relate to the time limit for the planning permission and require compliance with the submitted details which are necessary to provide certainty of the planning permission hereby granted. Condition 3 as previously mentioned is to secure full details of works required to provide services, including drainage, to ensure a satisfactory relationship with the Ancient Woodland. Those details are sought prior to the commencement of development to ensure that the trees to be retained within the site and those immediately adjacent in the Ancient Woodland would be protected from any possible harm associated with such works.
27. Condition 4 secures the tree protection measures for those trees to be retained as identified on the plans and Tree Report submitted. As the details in the Tree Report are acceptable, the submission and agreement of details as suggested by the Council is not required and I have amended the condition accordingly. Nonetheless, the condition necessarily requires the implementation of protection measures prior to commencement to ensure suitable protection for the Ancient Woodland, including requirements during the construction period for suitable parking and other arrangements for loading, unloading and storage of plant and materials. Condition 5 is imposed in the interest of a satisfactory character and appearance of the development insofar as it would ensure the provision of appropriate hard and soft landscaping and boundary treatments. It is a pre-commencement condition for the same reason as the previous condition given that it may require some ground works to take place.
28. As previously explained, condition 6 relating to the submission and agreement of material samples is necessary before any works above slab level to ensure the satisfactory appearance of the development relative to those surrounding. Condition 7 seeks to control external lighting within the site in the interest of mitigation of any indirect effects on the Ancient Woodland. Condition 8 ensures that the hardstanding area on the plan is laid out and retained as a parking, with a turning area for the dwelling. This is necessary to preserve highway safety and retain access for emergency vehicles.
29. The Framework advises that conditions should restrict national permitted development rights only where there is clear justification to do so. I am satisfied that it is appropriate in this case to remove permitted development rights relating to Class A, D, E or F of Part 1 and Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 to control any future development in close proximity to the Ancient Woodland as set out in Condition 9, and also to restrict windows in the north eastern side elevation facing No 52 to prevent loss of privacy in Condition 10.

Conclusion

30. For the reasons given above, I conclude that the appeal should be allowed and planning permission granted as set out in the formal decision and subject to the conditions in the attached schedule.

Gareth Wildgoose

INSPECTOR

SCHEDULE

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:
P17/49/100, P17/49/S/101, P17/49/S/110, P17/49/S/120, P17/49/S/121, PRI21833-01 & PRI21833-03.
- 3) Prior to the commencement of any works on site, full details of any services to be provided or repaired within the site, including drains and soakaways, shall be submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall be carried out in accordance with the tree related works and tree protection measures set out in the ACD Environmental Tree Report (including Arboricultural Impact Assessment and Method Statement) dated 14 May 2018 as submitted with the application and the associated approved plans (drg.no. PRI21833-01 & PRI21833-03). The approved scheme for the protection of the retained trees shall be in place before any site clearance or development commences, including where necessary those that require a further written method statement to have been submitted to and approved in writing by the local planning authority. Sufficient space outside of the areas subject to protection for the retained trees should be allocated within the site for: (a) parking for vehicles of site personnel, operatives and visitors (b) loading and unloading of plant and materials (c) storage of plant and materials. The protection measures shall remain in place until completion of all development works and removal of site vehicles, machinery, and materials in connection with the development.
- 5) Notwithstanding condition 2, prior to the commencement of any works on site, full details of all proposed hard and soft landscaping works, including details of boundary treatments, any paved areas and other hard surfaces and landscape planting, shall have been submitted to and approved in writing by the local planning authority. All landscaping works shall be carried out in accordance with the approved details before the end of the first planting season either following the first occupation of the dwelling or the substantial completion of development, whichever is sooner. Any trees or plants which within a period of 5 years from substantial 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 to those originally planted.
- 6) Notwithstanding condition 2, no development above slab level shall take place until full details or samples of the materials to be used in the construction of the external surfaces of the building and the doors and windows hereby permitted, 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 and samples.
- 7) Notwithstanding condition 2, no external lighting shall be installed within the curtilage of the dwelling hereby permitted, unless the details of the position, height and type of lights have first been submitted to and agreed in writing by

the local planning authority. The external lighting shall be installed and operated in accordance with the approved details thereafter.

- 8) The development hereby approved shall not be occupied until the hardstanding and turning area has been laid out within the site in accordance with drg.no. P17/49/S/101 to enable vehicles to be parked at No 50 and the proposed dwelling, and that those parked within the curtilage of the proposed dwelling may turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purpose.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), no building, structure or alteration permitted by Class A, D, E or F of Part 1 and Class A of Part 2 of Schedule 2 of the 2015 Order (as amended), other than those expressly authorised by this permission, shall be erected or made within the curtilage of the dwelling hereby permitted without the grant of planning permission.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, dormer windows or rooflights shall be constructed or installed in the north eastern side elevation of the dwelling hereby permitted without the grant of planning permission.