



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: 08 October 2019

Appeal Ref: APP/N1730/W/19/3229701

Willow Cottage, Stroud Lane, Crookham Village, Fleet GU51 5ST

- 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 Chris Boddy against the decision of Hart District Council.
 - The application Ref 18/00572/FUL, dated 12 March 2018, was refused by notice dated 5 March 2019.
 - The development proposed was originally described as a 'proposed new 3 bedroom traditional cottage with existing access within the existing residential curtilage of Willow Cottage Stroud Lane GU51 5ST.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development plan comprises 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 Council advises that the Submission Hart Local Plan 2016-2032 (the SHLP) was examined in December 2018 and subsequent Proposed Modifications have been subject to a period of public consultation until 19 August 2019, with adoption of the LP expected in Autumn 2019. As such, the policies of the SHLP have reached an advanced stage in their preparation, and are capable of being material considerations in the determination of the appeal.

Main Issues

3. The main issues in this case are:
 - Whether the proposed development would provide a suitable location for housing, having regard to the provisions of the development plan, the accessibility of services and facilities and the effect on the character and appearance of the area.
 - The effect of the proposed development on the Bourley and Long Valley Site of Special Scientific Interest (SSSI) and Thames Basin Heaths Special Protection Area (SPA).

Reasons

Location for housing

4. The appeal site comprises an area of land adjacent to Willow Cottage, a detached dwelling forming the last property on Stroud Lane, a short lane

leading from one of the roads leading into Crookham Village. Willow Cottage itself, and those parts of its grounds outside the red line of the appeal site, lie within the Crookham Village Conservation Area. Accordingly, I have had regard to the statutory duty¹ in considering the appeal. I have also had regard, so far as it is relevant to the main issue, to the evidence submitted in respect of the status of the land in planning terms. However, it is not within the scope of this appeal for me to determine the lawful status of the land.

5. The Council's first reason for refusal refers to the site's location outside of the defined settlement boundary and that it would have a detrimental effect on the character and setting of the countryside by virtue of its siting, design and layout in the landscape. In doing so, the Council refers to conflict with saved Policy RUR2 of the Local Plan.
6. The settlement boundary in this case runs between the appeal site and the remainder of the grounds of Willow Cottage. I have had regard to the appellant's submissions in respect of the history of the settlement boundary and perceived mistakes in its positioning. However, the boundary as drawn forms part of the development plan and on that basis, the site lies in the countryside where Policy RUR2 applies. The policy resists development in the open countryside unless the local planning authority is satisfied that it is specifically provided for by other policies in the LP, and that it does not have a significant detrimental effect on the character and setting of the countryside by virtue of its siting, size and prominence in the landscape. I am not drawn to another policy which would support market housing in the open countryside, so the proposal would not meet this aspect of Policy RUR2.
7. The Council acknowledges in its delegated report that the design of the proposed timber oak beam dwelling would integrate with the vernacular of the surrounding area and the adjacent Willow Cottage. From my own observations, I would agree that the design would be appropriate to its setting amid mature trees and the surrounding countryside. Indeed, I saw that the site is well screened to all sides by tall trees and hedgerows, such that only the uppermost parts of the dwelling would be visible across fields from neighbouring properties on Crondall Road. Even then, the dwelling would be framed by significant greenery and would not appear exposed or conspicuous in the landscape.
8. From the lane, which also forms part of a public footpath that diverts to the south across fields just before the proposed entrance, the dwelling would be seen in a similarly wooded setting, and in context with Willow Cottage, and would be understood as the end dwelling along the existing lane. Therefore, in terms of its siting and design, I find that the proposal would not harm the character or appearance of the area, nor would it harm the setting of the Crookham Village Conservation Area.
9. The site is adjacent to the settlement boundary and within walking distance of the centre of Crookham Village, which has a public house, social club and parish hall, with a bus service to nearby towns. The dwelling would be no more distant from the centre of the village than the dwellings lining Crondall Road to the south, and therefore I find the site is not isolated in terms of the Framework and an additional dwelling would accord with the Framework aim of helping to maintain the vitality of the rural community.

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

10. Whilst the proposal would provide a market dwelling adjacent to, but outside of, the defined settlement boundary, for the reasons set out above, I conclude that there would be no conflict with the overriding objective of policy RUR2 to protect the character and setting of the countryside by controlling the siting, size and prominence of development in the landscape.

Effect on Thames Basin Heaths SPA

11. The application site lies within 5km of the Bourley and Long Valley Site of Special Scientific Interest (SSSI) which forms part of the Thames Basin Heaths Special Protection Area (SPA). The SPA is a network of heathland sites designated for their ability to provide a habitat for the important bird species of woodlark, nightjar and Dartford warbler. The area is designated as a result of the Birds Directive and the European Habitats Directive² and protected in the UK under the provisions set out in the Habitats Regulations³.
12. The protection of the SPA is set out in the Local Plan through Saved Policies CON1 and CON2. In addition, saved Policy NRM6 of the otherwise revoked South East Plan requires adequate measures to avoid or mitigate any potential adverse effects on the SPA.
13. The potential effect of the development on the SPA in this case, either alone or in combination with other developments, is the increased likelihood of use of the SPA for recreational purposes by future occupants of the dwelling due to its proximity, resulting in potential disturbance to the habitats of the aforementioned bird species. The appellant's own Ecological Summary recognises this potential pressure. Having regard to both parties' evidence, I find that it is not possible to rule out a likely significant effect on the SPA either in isolation or in combination with other plans and projects and consequently an appropriate assessment is required if permission is to be granted.
14. In terms of mitigation, the Council's Interim Avoidance Strategy for the Thames Basin Heaths SPA (November 2010) (the IAS) sets out that this would be achieved through a payment towards a Strategic Access Management and Monitoring project (SAMB) and provision of a Suitable Accessible Natural Greenspace (SANG).
15. The appellant has submitted a completed unilateral undertaking (UU) within which the appellant undertakes to pay the SAMB contribution of £688, and not to occupy the development until the identified SANG land has been laid out and made available to the public. The land in question is stated to be at Moss End Farm near Bracknell. Though the appeal site lies beyond the catchment of this proposed SANG, Policy NRM6 supports this approach for small scale development of less than 10 dwellings. However, the Council raises questions over whether the SANG in question actually has sufficient capacity available to meet the needs of this development.
16. During the appeal, I sought the views of the main parties as to the effectiveness of the submitted UU in securing the SAMB and SANG contributions and I have had regard to the responses received.
17. The UU includes at Annex 1 a letter dated 31 July 2019 from the owner of the proposed SANG land to the appellant and Bracknell Forest Borough Council, the

² Council directives 79/409/EEC and 92/43/EEC

³ Conservation of Habitats and Species Regulations 2017

authority in which the land lies. The letter refers to a contract made on the same date between the appellant and the owner of the land for the provision of SANG. The evidence before me indicates there is sufficient capacity for SANG at the proposed site. However, the UU does not include details of the full terms of the contract entered into. Only excerpts of this contract have been provided separately to the UU which do not include the pertinent details of the agreement. As a consequence, I cannot be certain as to the exact nature of the SANG provision or whether it would be sufficient to offset the impact of the development.

18. Moreover, the obligation submitted is unilateral and as such does not bind the Council to spend the SAMM contribution on relevant mitigation measures. That is not to suggest that the Council may not spend the contribution appropriately, and it may well be that the Council has agreed a strict, audited system with Natural England to ensure that the monies are directed towards specific projects. However, I do not have details of that process and besides this, the agreement does not bind its engagement. I can envisage a situation where an authority determining a planning application which is also responsible for implementing the mitigation could satisfy itself that a sufficiently robust link exists between effect and mitigation. However, I am the competent authority under the Regulations in respect of this appeal and the submitted obligation does not give me the required certainty.
19. In light of the above, following Appropriate Assessment and adopting a precautionary approach, I am unable to conclude that likely significant effects on the integrity of the SPA can be excluded. As such, the proposal is 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

20. 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. However, a lack of harm in these respects is a neutral consideration weighing neither for nor against the proposal.
21. I note other concerns raised relating to rights of way along Stroud Lane. 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 reasoning.

Planning Balance

22. I recognise there would be benefits to the proposal from an additional dwelling to the housing stock, economic activity generated by its construction and expenditure in the local area by future occupants, and that the dwelling would be a self-build project. However, these benefits would be limited in each case given the small scale of the proposal.

23. The Council indicates it can demonstrate greater than a five year supply of deliverable housing land. Nevertheless, the appellant contends that Policy RUR2 is out-of-date on the basis that the settlement boundaries to which it refers were drawn up to meet outdated housing requirements of the now revoked East of England Plan. I am referred to a number of recent appeal decisions in the District which have considered this issue.
24. I have had regard to these decisions and the parties' submissions on the weight to be afforded Policy RUR2 and the potential application of the 'tilted balance' of Paragraph 11 of the Framework. However, even if I were to afford less weight to this policy, 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 Footnote 6 and 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.

Conclusion

25. Consequently, for the reasons given, and taking all relevant matters into consideration, the appeal is dismissed.

K Savage

INSPECTOR