
Appeal Decision

Site visit made on 10 September 2019

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2019

Appeal Ref: APP/P1750/W/19/3231264

1 Cold Harbour Lane, Farnborough GU14 9AH

- 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 Springer Foster Properties Ltd against the decision of Rushmoor Borough Council.
 - The application Ref 18/00677/FUL, dated 13 September 2018, was refused by notice dated 19 December 2018.
 - The development proposed is the demolition of garage and outbuildings and erection of a two-storey building comprising two flats with associated parking, access and amenity space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In February 2019 the Rushmoor Local Plan 2014-2032 (the Local Plan) was adopted. It replaces the policies of the Rushmoor Plan Core Strategy (adopted 2011) and the saved policies of the Rushmoor Local Plan Review (1996-2011). Policy NRM3 of The South East Plan – Regional Spatial Strategy for the South East (the RSS) remains in force.
3. The appellant has provided an obligation under section 106 of the Act to address the reason for refusal relating to the Thames Basin Heaths Special Protection Area. I have addressed this in more detail in my reasoning below.

Main Issues

4. The main issues are (i) the effect of the proposal on the character and appearance of the area, (ii) whether the proposed development would provide satisfactory living conditions for future occupiers with regard to outdoor space, and (iii) the effect of the proposal on the Thames Basin Heaths Special Protection Area.

Reasons

Character and appearance

5. The appeal site is the garden to the side of a semi-detached house, set within a group of variously-altered, but still clearly contemporaneous brick and render semi-detached houses. The opposite side of the street features a mixture of houses and flats of different styles and appearances, but generally grouped in a

- cohesive way, lending an ordered and planned character and appearance to the area.
6. Notwithstanding the removal of elements of the front boundary hedge, suggested by the appellant, from observations on my site visit the appeal site and the other properties in the street are characterised by their front boundary hedging.
 7. There are also various substantial trees and other elements of green landscaping surrounding the site itself and in the wider street-scene. These elements add positively to the character and appearance of the area, reinforcing the generally spacious and green character of the appeal site and its immediate surroundings.
 8. The proposed two-storey building will match, in terms of materials and roof-form the host property and the neighbouring pairs of semi-detached dwellings. However, it would be appreciably narrower and owing to the tapering plot, the rear of the building would be very close to the rear boundary.
 9. I accept that the front of the property follows the established building line and relationship to the pavement edge. However, I consider that the relationship of the rear of the proposal to the boundary, likely to be clearly appreciable in the street-scene, will make the development appear uncomfortably and uncharacteristically close to that boundary.
 10. In my view, the tapering of the plot would also be apparent in the street-scene and would emphasise the uncharacteristically shallow plot depth and close relationship to the rear boundary. As a result, I consider that the size of the proposal relative to the size of the plot would appear incongruous within the otherwise generous and spacious street-scene.
 11. As shown on the drawings, the proposal would also require the removal of the substantial front boundary hedge and, apparently, its replacement with newly planted hedging. As noted above, this hedging, and boundaries of this nature are an important characteristic of the area and their removal would be harmful to the character and appearance of the area. Whilst I note the intention to plant replacement hedging, this will of course take some time to mature.
 12. I consider therefore that the proposal would cause substantial harm to the character and appearance of the area, primarily through its relationship to its plot but also due to the change to the front boundary screening.
 13. It would therefore be in direct conflict with the requirement of Policy DE11 of the Local Plan which allows for this type of development only where the site is suitably sized and can accommodate the proposal whilst providing suitable space around buildings and seeks to ensure that proposals are compatible with the existing pattern of development.
 14. The proposal would also conflict with Policies DE1 and NE3 of the Local Plan which seek to ensure that development respects the character and appearance of the local area and provides landscaping which improves and enhances visual amenity.

Living conditions of future occupiers

15. The proposal provides three areas of outdoor space for the future occupiers, to the front, rear and side of the property. I note the arguments of both the Council and the appellant with regard to the outdoor space proposed, particularly the comments of the appellant regarding the sufficiency of the space in terms of square-metres provided.
16. I also note the distinction made in Policy DE3 of the Local Plan between the type of outdoor space required for flats and houses, and the appellant's submissions in this regard. However, the requirement in the policy for quality, usability and privacy is an overarching one that applies to outdoor space for all residential development.
17. In terms of quality and usability, I am conscious that the rear outdoor space is relatively short, faces north and narrows to a point at the corner of the proposed building. I also have reservations over the suitability of the space to the side, owing to the layout arising from accommodating the parking space and associated screening.
18. Regarding privacy and usability, I share the concerns of the Council over the space provided to the front, particularly as it would be much more open to public views due to the parking space and path immediately next to it.
19. I do not accept that because the proposal is for 1-bedroom flats there is a lower expectation for the provision of outdoor space. In any event, the wording of the policy requires good-quality, usable private outdoor space regardless of the specific nature of the proposal.
20. As such, I do not consider that the proposal would offer satisfactory outdoor space in terms of quality, usability or privacy and would therefore give rise to unacceptable living conditions for future occupiers of the appeal proposal.
21. The proposal therefore conflicts with Policies DE3 and DE11 of the Local Plan which seek to ensure that outdoor space is good-quality, usable and private and ensure that development on residential gardens provides adequate amenity space.

Thames Basin Heaths Special Protection Area

22. The appeal proposal would lead to an increase in the number of residential dwellings within the SPA buffer zone. As such it could have an adverse effect on the qualifying features of the SPA, so mitigation is required. In this area, mitigation is provided through the Rushmoor Thames Basin Heaths Special Protection Area Interim Avoidance and Mitigation Strategy, which identifies mitigation, the levels of contribution required towards that mitigation and gives the Council responsibility for the allocation of mitigation capacity.
23. Because the Council considered the proposal unacceptable in planning terms when it determined the application, no mitigation capacity was offered and as such, the proposal was unable to mitigate its impact on the SPA.

24. The appellant has submitted a legal agreement under section 106 of the Act to address this reason for refusal in line with the conclusions of their 'Report to inform Habitats Regulation Assessment' and the consultation response of Natural England. The agreement commits the appellant to paying the Special Protection Area Contribution in line with the amounts specified in the Rushmoor Thames Basin Heaths Special Protection Area Interim Avoidance and Mitigation Strategy.
25. Having examined the submitted agreement, described by the appellant as a unilateral undertaking, I do not consider that it addresses the reason for refusal. The title page refers to it being an 'Agreement', lists the Council as a party to it, covenants the Council to actions in Schedule 2 and has space for, but lacks, the signature of the Council.
26. Had I not found against the proposal for the other reasons set out above, I would have sought more comment from the parties on this matter.
27. The proposal does therefore not meet the requirements of Policy NRM3 of the RSS or Policy NE1 of the Local Plan to demonstrate that adequate measures are in place to avoid or mitigate any potential adverse impacts on the Thames Basin Heaths Special Protection Area.

Other Matters

28. The appellant highlights the support in the National Planning Policy Framework (the Framework) for significantly boosting the supply of homes, the importance of the contribution of small sites, the need to optimise and secure efficient use of land. These are however qualified against need for well-designed places, sympathetic to the character and appearance of the surrounding area which promote a high standard of amenity for existing and future users.
29. Although the Framework, including the presumption in favour of sustainable development is a material consideration, the harm, and resulting conflict with the development plan that I have identified above is not outweighed by it. As such, there are no material considerations which indicate I should take a decision other than in accordance with the development plan.

Conclusion

30. For the reasons given above I conclude that the appeal should be dismissed.

S Dean

INSPECTOR