
Appeal Decision

Site visit made on 22 October 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Appeal Ref: APP/A3655/W/19/3234540
Belfairs, Pond Road, Woking GU22 0JT

- 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 Hawksview Developments Ltd against the decision of Woking Borough Council.
 - The application Ref PLAN/2019/0292, dated 19 March 2019, was refused by notice dated 26 June 2019.
 - The development proposed is erection of a pair of semi-detached dwellings together with alterations to vehicular access and parking arrangements following demolition of existing bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on;
 - the Thames Basin Heaths Special Protection Area (SPA); and
 - the character and appearance of the area.

Reasons

Thames Basin Heaths Special Protection Area

3. The site falls within 400m to 5 km of the SPA. The SPA comprises an area of lowland heathland. It is designated because of the presence of breeding populations of three bird species: Dartford Warblers, Woodlarks and Nightjars. These heaths, and the birds that nest and breed there, are easily disturbed due to recreational activity from people and their pets.
4. The proposal would lead to an additional dwelling. There is a reasonable likelihood that the SPA would be accessed for recreational purposes by future occupiers of the development. Although small in itself, this may lead to the harmful disturbance of the habitat of birds and is likely to have a significant adverse effect on the integrity of the SPA, when considered in combination with other residential development in the surrounding area.
5. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require that an Appropriate Assessment is carried out. The Habitats Regulations also indicate that permission may only be

- granted after having ascertained that a scheme will not affect the integrity of the European site. I may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the site.
6. I have sought further evidence on this matter, and Natural England (NE) was consulted in the course of the appeal. I have undertaken this assessment on a proportional basis and adopting a precautionary approach.
 7. The information before me, including the Woking Borough Council Thames Basin Heaths Special Protection Area Avoidance Strategy (Strategy) and the Thames Basin Heaths Special Protection Area Delivery Framework (Delivery Framework), indicate that NE considers that the impact of such development on the natural habitats in the SPA can be managed by the provision and maintenance of Suitable Alternative Natural Green Space (SANGS). This would attract people away from the SPA with Strategic Access Management and Monitoring (SAMM) to monitor and manage the impact of people using the SPA, and habitat management of the SPA to improve the habitats of the protected birds.
 8. NE has commented that providing contributions are secured through legal agreement or conditions to SANGS and SAMM in line with the requirements of the strategy, that they are satisfied that the mitigation would ensure that there are no impacts to the European site.
 9. The appellant has provided a unilateral undertaking (UU) that would provide a financial contribution towards SAMM. The Council have stated that every quarter they transfer all SAMM receipts in the borough to Hampshire County Council with the money being spent in accordance with the Strategy. This would involve a wardening scheme, to monitor and manage access to the SPAs and encourage people to use the SANGS land rather than SPA's. It would also be used to monitor access and management projects of these sensitive sites, leaflets, signage and educational material. The CIL charging schedule secures the contribution towards SANGS and the Council have identified sufficient space at Brookwood Park.
 10. The Council has not disputed the form, wording or level of contribution given in the UU. Nevertheless, I need to be convinced that the payment would be used for its intended purpose and directly mitigate the impacts of the appeal scheme. The UU does not stipulate where the contribution would be spent within the borough. Furthermore, it is not specified in the UU what elements contained within the Strategy that the contribution would go towards. Finally, there is no detailed up to date evidence before me with regard to the monies that have been collected for each element listed in the Strategy and whether any have been carried out already.
 11. As such, I cannot be certain that the contribution would directly offset the impacts of the proposed scheme. There is insufficient information to demonstrate that conditions are an appropriate mechanism of securing a scheme for mitigation, and that they would meet the requisite tests in Planning Practice Guidance.
 12. Accordingly, I am not satisfied that appropriate mitigation has been secured. The evidence before me indicates that there is potential for recreational

disturbance to the SPA through additional activity associated with the proposed development, which has the potential to affect the integrity of the SPA.

13. Where suitable mitigation cannot be secured the Habitats regulations state that planning permission should only be granted if there are no alternative solutions, that there are reasons of overriding public interest and suitable compensatory measures are secured. There is no compelling evidence to indicate that the appeal proposal is the only solution for such a scheme. Based on the individual merits of the case, the provision of 2 dwellings is not sufficient to amount to imperative reasons of overriding public interest. Finally, no compensatory measures have been put forward.
14. Consequently, having regard to the Habitat Regulations, permission should not be granted. The proposed development could result in harm to the integrity of the SPA and conflict with the Habitats Regulations, Policy CS8 of the CS, Saved Policy NRM6 of the South East Plan Regional Spatial Strategy for the South East 2009, the Thames Basin Heaths Avoidance Strategy, and Delivery Framework as well as the National Planning Policy Framework.

Character and appearance

15. The divided rear gardens would be narrower, and the proposed plot sizes smaller, than many nearby properties. Nonetheless, the rear of the site would be largely screened by the mature vegetation to the side and rear boundaries of the site. Moreover, despite often having wide frontages, plots in the area are not consistent in their widths and overall shape. This and the variation in the scale and design of properties provides a degree of individuality to the streetscene.
16. Properties in Pond Road are generally detached. However, there are examples of buildings being attached or in close proximity to each other in the wider area. Moreover, unlike some of the existing properties along Pond Road, including the existing dwelling at the appeal site, the proposed development would be set in from its side boundaries. In addition, it would be set back further than the existing property, more in line with the adjacent dwelling. These factors would prevent the development looking cramped and retain a feeling of space.
17. There would be views into the plot from Pond Road, through and between the mature landscaping to be retained and the additional planting. The overall bulk and height of the development would be greater than the existing bungalow. Notwithstanding this, as the appeal proposal would be seen in the context of several other large properties nearby, it would not dominate the streetscene. As there are already outbuildings forward of the main building line of the dwellings in the street, the position of the proposed garage would not be out of keeping.
18. The entrance for one of the proposed dwellings would be on the side elevation. However, even if this were to be apparent from the street, along with the open shared parking and turning area and single access point it would help the site retain the appearance of being a single property.
19. Policy BE1 of the Hook Heath Neighbourhood Plan (neighbourhood plan) states that where possible plot sizes should be similar to those adjacent and in other cases within 5-10dph. To my mind the use of the words 'where possible'

implies that it will not be achievable in all cases and that there will be occasions where differing from this will occur. Therefore, while at a higher density than the examples put to me, the curtilages would not be substantially below others in the area. Along with the single dwelling appearance of the site frontage and landscaping, the scheme would retain the Arcadian and sylvan streetscene. I note concern over potential opportunities for sub-division elsewhere within the immediate area. However, each case must be determined on its own individual merits and evidence.

20. Therefore, the proposed development would not be harmful to the character and appearance of the area. It would accord with Policies CS21 and CS24 of the CS, Policy DM10 of the Woking Development Management Policies Development Plan Document, Policy BE1 of the neighbourhood plan, and the Woking Design SPD. These, in part, require developments to conserve the existing character, present a frontage in keeping with the existing streetscene, have regard to the building lines, scale and characteristics of the adjoining land and have curtilages that would not be substantially below those in the area.
21. It would also comply with paragraph 127 of the Framework which seeks to ensure developments are sympathetic to local character.

Other Matters

22. I note comments from third parties to both the planning application and this appeal. However, the Council have not included refusal reasons with regard to matters such as the principle of residential development at this location, internal and outdoor space standards, highways safety, neighbouring amenity or refuse storage. As I am dismissing the appeal there is no need for me to consider these matters further. In any event, the absence of harm is a neutral factor.
23. Even if I were to consider that the Council do not have an up-to-date 5 year housing land supply, the Framework indicates in footnote 6 to paragraph 11d)i, that the presumption in favour of sustainable development does not apply where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The SPA is an example of such an area/asset and the proposal is contrary to the relevant policies of the Framework in regard to these.
24. The Framework seeks to significantly boost the supply of housing and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. However, being for 2 dwellings the contribution to the supply and mix of housing in the borough would be modest. For the same reason benefits associated with energy efficiency, sustainable construction along with those resulting from the construction period and spending of future occupiers, would be limited. Any benefits associated with the efficient use of land, even if I were to consider the site was brownfield land, would not outweigh the harm I have identified.
25. The previous planning permission at the site is materially different to the scheme before me as it did not involve an additional dwelling. Moreover, while the appellant has sought to overcome concerns raised by the Council by amending the scheme, I have found harm arising from the appeal proposal.

Conclusion

26. While I found that the scheme would not result in harm to the character and appearance of the area, the harm to the SPA is determinative.
27. For the reason given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR