
Appeal Decision

Site visit made on 9 December 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/A3655/W/19/3237371

Red Lodge, Cedar Road, Woking GU22 0JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Suzanne Ratcliffe against the decision of Woking Borough Council.
 - The application Ref PLAN/2018/1335, dated 14 December 2018, was refused by notice dated 5 September 2019.
 - The development proposed is demolition of existing bungalow and erection of two, two storey three bedroom houses with double garages, using existing accesses from Cedar Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with all matters reserved except for access. I have had regard to the details provided in relation to access but have regarded all other elements as illustrative. I have determined the appeal on this basis.

Main Issues

3. 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

4. The site falls within 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.
5. 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.
6. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require that an Appropriate Assessment (AA) 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.
 7. I have sought further evidence on this matter, and Natural England (NE) was consulted in the course of the appeal. I am also aware that an AA was carried out during the application. I have undertaken this assessment on a proportional basis and adopting a precautionary approach.
 8. The information before me, including the Woking Borough Council Thames Basin Heaths Special Protection Area Avoidance Strategy (Strategy) indicates 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.
 9. NE has commented that providing contributions are secured through legal agreement 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.
 10. The appellant has submitted a unilateral undertaking (UU) that would provide a financial contribution towards SAMM. The Strategy outlines that SAMM contributions will be coordinated strategically by Natural England, with Hampshire County Council fulfilling the role of Treasurer. 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 include bird and visitor surveys to be undertaken to monitor the effectiveness of the mitigation measures. The CIL charging schedule secures the contribution towards SANGS and the Council have identified sufficient space at Brookwood Park.
 11. The Council has not disputed the form, wording or level of contribution given in the revised UU provided by the appellant. 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 the elements listed in the Strategy and whether any have been carried out already.
 12. 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.

13. 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. This has the potential to affect the integrity of the SPA.
14. 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 1 additional dwelling is not sufficient to amount to imperative reasons of overriding public interest. In addition, no compensatory measures have been put forward.
15. 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 Woking Core Strategy (CS), Saved Policy NRM6 of the South East Plan Regional Spatial Strategy for the South East 2009, the Thames Basin Heaths Avoidance Strategy and the National Planning Policy Framework (Framework).

Character and Appearance

16. The mature trees and other vegetation both within plots and along the street give the area a verdant and spacious appearance. However, there is variety to the style and scale of properties in Cedar Road and the surrounding streets. Moreover, dwellings and other buildings, some of which are of a substantial size, are clearly visible in the streetscene. This includes 2 storey properties at corner plots near the appeal site. The proposed properties would be visible from public views, including from the nearby junctions. Nevertheless, as with the existing built form they would be viewed in the context of the mature vegetation within the site and surrounding area.
17. While many of the nearby plots are of a relatively large size, there is no consistent pattern to them in the area. There are plots nearby with a comparable width and lesser depth to that of the appeal scheme. Although the indicative layout shows the proposed plots would be narrower than some neighbouring properties, they would accord with the mid-range for Arcadian Developments recommended in the Hook Heath Neighbourhood Plan (NP). As such, the plots would not appear uncharacteristically narrow, particularly at their wider site frontages.
18. The indicative details show that the dwellings would fill much of their plot width. Nonetheless, the existing property is located close to its side boundaries. In addition, this is the case for many nearby 2 storey properties, including those on corner plots such as that opposite the site on Cedar Road. Consequently, the scheme would have a similar spacing between properties to some existing ones nearby and would not appear cramped.
19. The proposal refers to the retention of the mature landscaping within the plot. The indicative details show that buildings would be located within the root protection areas of some of the trees. Careful controls in terms of construction

methods, level changes and protective measures could be secured by condition to safeguard these features were the appeal to be allowed. As such, the Arcadian appearance to the streetscene would not be eroded.

20. Unlike along parts of Mile Path, there is no consistent building line in Cedar Road. There are properties further forward than those adjacent to the site and garages to the front of dwellings in the street as well as the wider area. Therefore, a similar arrangement at the appeal site would not be at odds with the prevailing pattern of development. Furthermore, whilst the indicative positioning of buildings is shown, landscaping, layout, scale and appearance are reserved matters.
21. I am aware of a dismissed appeal at Haere Mai¹ for a new dwelling. Nonetheless, that proposal sought to introduce new built form into a vacant garden space where the existing property was set further in from its side boundary. This would be materially different to the appeal scheme where there is already a property on the site filling much of the plot width. I note that the Inspector in that appeal observed that there were ancillary buildings forward of dwellings nearby.
22. As such, the proposal would not harm the character and appearance of the area. It would accord with Policies CS10 and CS21 of the CS and Policy DM10 of the Woking Local Development Management Policies Development Plan Document. These seek to ensure that development is of an appropriate density, avoiding inappropriate sub-division substantially below that prevailing in the area and that proposals respect the streetscene and character of the area. Furthermore, the scheme would align with Policy BE1 of the Hook Heath Neighbourhood Plan, where it, in part, seeks to maintain or enhance the character of an area by ensuring that plot sizes are similar to those adjacent and in other cases within the mid-range for Arcadian Developments.
23. Finally, the proposal would accord with the Framework where it seeks to ensure developments are sympathetic to local character.

Other Matters

24. I appreciate the personal circumstances of the appellant and that the scheme would allow them to downsize and a member of their family to enter the housing market. However, these personal benefits are not a justification for setting aside the harm that the proposal would cause.
25. 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 1 additional dwelling the contribution to the supply and mix of housing in the borough would be small. For the same reason benefits associated with energy efficiency and sustainable construction would be limited.
26. 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. Moreover, I acknowledge comments by the main parties and NE on the potential effect of the proposal on biodiversity in regard to bats. However, as I

¹ APP/A36555/W/16/31512323

have found other harm sufficient to dismiss the appeal, I have no need to consider these matters further. In any event, the absence of harm is a neutral factor.

27. I note comments from third parties to both the planning application and this appeal. Nonetheless, whether a proposal attracts comments in support or opposition in itself is not a ground for refusing or granting planning permission unless founded upon valid planning reasons.

Conclusion

28. For the above reason, and having taken into consideration all other matters raised, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR