The Planning Inspectorate

Appeal Decisions

Site visit made on 4 February 2020

by L McKay MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 30th March 2020

Appeal A Ref: APP/M3645/W/19/3240378
146 Copthorne Road, Felbridge RH19 2PD

- 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 Mr Jack Andrew Crispin against the decision of Tandridge District Council.
- The application Ref TA/2019/502, dated 11 March 2019, was refused by notice dated 16 May 2019.
- The development proposed is the demolition of an existing single storey dwelling, garage and separate annexe building and the construction of three new detached two storey four bedroom dwellings.

Appeal B Ref: APP/M3645/W/19/3240371
146 Copthorne Road, Felbridge RH19 2PD

- 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 Mr Jack Crispin against the decision of Tandridge District Council.
- The application Ref TA/2019/1217, dated 5 July 2019, was refused by notice dated 16 September 2019.
- The development proposed is demolition of existing separate annexe building in side garden and construction of a new detached two storey chalet style 3/4 bedroom dwelling.

Decisions

1. Appeals A and B are dismissed.

Procedural Matters

2. Both applications were made in outline with all matters reserved for future consideration. I have therefore considered the submitted drawings, other than the location plans, as indicative. Nevertheless, the descriptions set out in the headings above, which are taken from the application forms, describe more specifically the type of dwellings proposed. I have therefore considered the appeals on the basis of these descriptions.

3. As set out above there are two appeals, however both relate to the same existing dwelling and its plot, and differ only in the extent of the application site and the number of dwellings proposed. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. The appeal sites are within the Metropolitan Green Belt. However, as the effect of the proposed developments on the Green Belt is not a matter of dispute

between the parties, I have not considered it further and have considered the appeals on the reasons for refusal only.

Main Issues

5. The main issues for Appeal A are the effects of the proposal on the character and appearance of the area and on protected species.

6. The main issues for Appeal B are the effect of the proposal on the character and appearance of the area and on the Hedgecourt Site of Special Scientific Interest (SSSI).

Reasons

Appeals A and B: Character and appearance

7. Policy DP12 of the Tandridge District Local Plan Part 2: Detailed Policies 2014 (LPP2) permits development in Defined Villages in the Green Belt, including Felbridge, where it comprises one of several development types. This includes infilling, but does not include inappropriate subdivision of existing curtilages to a size below that prevailing in the area.

8. Towards the centre of the village residential plots are relatively narrow and not very deep, with dwellings set close together, creating relatively high densities. Travelling west along Copthorne Road towards No 146, prevailing plot sizes increase towards the edge of the village. Although as the appellant identifies, plot widths are generally quite narrow on the northern side of the road, the size of the plots are not just a function of width but also of depth. Plots in this area are generally significantly deeper than in the centre of the village and therefore considerably larger. On the southern side of the road, plots are even larger. Accordingly, although there is some infill development on smaller plots the prevailing pattern in this part of the village is of generously sized plots in various configurations.

9. Appeal A would see the appeal site subdivided into three plots. The indicative layout shows three linear plots of similar width to others nearby, but significantly shorter and therefore smaller. Layout is a reserved matter, however due to the size of the appeal site any configuration of 3 plots would subdivide the existing curtilage to a size well below that prevailing in the area.

10. Appeal B would divide the existing curtilage into 2 unequal sections. The remaining plot for the host property would be relatively wide and although still limited in depth, would nevertheless be similar in size to those in the area. The plot for the proposed dwelling would however again be of similar width but shorter in depth than those in the area, and as such would be significantly smaller than the prevailing size.

11. Consequently, both proposals would result in inappropriate subdivision of the existing curtilage and would not therefore be 'infilling' for the purposes of LPP2 Policy DP12.

12. However, that Policy also allows partial or complete redevelopment of previously developed land (PDL), even if this goes beyond the strict definition of infilling. Although the appeal sites are within the defined boundary of a village, they are not within the settlements listed as 'built-up areas' in Policy CSP1 of the Tandridge District Core Strategy 2008 (CS). Therefore, the appeal

sites can be considered PDL as defined in the Framework and both proposals would fall within the second criterion of LPP2 Policy DP12. Notwithstanding this, part B of the Policy also requires such proposals to be in character with the village and I turn to this issue below.

13. The prevailing pattern of development in this part of Copthorne Road is of sizeable detached dwellings of varying designs, set well back from the road in generous plots. There is a fairly consistent building line, however due to the mature trees and hedges along frontages, this is not particularly apparent from the road. The vegetation creates a verdant character, and the density of planting increases when travelling west out of the village centre. Immediately to the west of the sites are a public footpath and area of woodland which then opens out to fields. While there are other relatively large dwellings further west on the southern side of the road, they are set within large plots and well screened by trees, so are not readily apparent from the road.

14. The gaps between dwellings also increase towards the edge of the village, with the existing dwelling and No 144 set in spacious plots. Both are bungalows and the space between them, their low height and the falling ground levels allow for views between and over these dwellings to the woodland and other trees behind. Consequently, they create a visual transition from the village to the countryside.

15. There is no requirement in national or local policies for new dwellings to be identical to other properties in the area, however both require development to be sympathetic to the character of the area. The small size of the proposed plots for Appeal A would be readily apparent from the road, as while the existing landscaping would be retained at the front of the site, its limited height would provide little screening.

16. The 2-storey dwellings proposed would be taller than the neighbouring single storey dwelling and would result in a significantly greater amount of built form on the site than at present. Together with associated car parking, hardstandings and other domestic paraphernalia, the 3 dwellings proposed would significantly and harmfully diminish the relatively open, spacious character of the site.

17. Although Appeal B proposes only a single 2-storey dwelling, the narrow width of the plot and the amount of accommodation proposed would result in a significant increase in built form and consequent reduction in the space around the existing bungalow.

18. Consequently, although both proposals would be relatively low-density development, the small plot sizes and smaller gaps between dwellings would be uncharacteristic of the more spacious settings of the site and surrounding dwellings. Although the indicative layouts for both proposals would follow the prevailing building line, there would be little space available for additional planting to reinforce the verdant character of the road. As a result, both proposals would significantly weaken the sense of transition to the countryside, which contributes positively to the character of the area.

19. The appellant suggests that for both schemes the proposed dwellings would be of contemporary design, however the appearance of the proposed dwellings is a reserved matter and few details have been provided. Consequently, there is no evidence before me that the dwellings would be of such quality as to

overcome the harm identified above. While ground levels fall from the road into the site, the change in levels is not particularly pronounced and as such would not overcome the likely impacts relating to the size and position of the proposed dwellings.

20. Accordingly, both Appeal A and Appeal B would significantly harm the character and appearance of the area. As such, they would conflict with LPP2 Policies DP7 and DP12, which, amongst other things, require development to integrate effectively with its surroundings and be in character with the village; and with CS Policy CSP18 which requires development to reflect and respect character, setting and local context. Furthermore, they would conflict with the requirements of the Framework to add to the overall quality of the area and be sympathetic to local character.

Appeal A: Protected species

21. The ecological assessment for Appeal A found that the bungalow is a confirmed roost for Brown Long-eared bats. The garage was deemed to have low suitability to support roosting bats and the annexe negligible suitability.

22. Appeal A would involve the demolition of both the bungalow and garage, resulting in the loss of the bat roost. The ecologist recommends that further surveys are required to inform the need, or not, for a European Protected Species licence from Natural England in relation to the garage, and to inform the type of licence and extent of any mitigation strategy for the demolition of the bungalow.

23. It is suggested that mitigation can be incorporated into the design of the proposed development at reserved matters stage and can therefore be secured by condition. However, Circular 06/2005 is clear that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It goes on to set out that surveys should only be required by condition in exceptional circumstances[1].

24. In this case, although some information is known, there is insufficient information before me to determine the extent to which bats would be affected by Appeal A. While some mitigation measures are suggested, these have not been tailored to the particular circumstances of the site and cannot be, in the absence of adequate information. It is not therefore possible to confirm that the proposal would meet the derogation tests set out in the Habitats Regulations or the principles in Framework paragraph 175a).

25. As any outline permission is the planning permission, it is necessary to have enough information at this stage to understand the impacts on protected species. This cannot be left to reserved matters stage, where only limited matters remain for consideration. Therefore, the fact that the application was made in outline form is not an exceptional circumstance that would justify securing this information by condition.

26. Accordingly, Appeal A would result in harm to protected species and as such would conflict with LPP2 Policy DP19 and CS Policy CSP17, which seek to protect biodiversity and resist development affecting protected species unless

[1] Paragraph 99

the species involved will not be harmed or appropriate mitigation measures can be put in place. As it has not been demonstrated that significant harm to protected species cannot be avoided, adequately mitigated or compensated for, Framework paragraph 175a) directs that planning permission should be refused.

Appeal B: SSSI

27. As the proposal would result in a net gain in residential units, it has the potential to increase recreational pressures on Hedgecourt SSSI, which is approximately 260m from the site. Hedgecourt is described in the SSSI citation as, 'the most important wetland site remaining in south-east Surrey, the site incorporates a range of habitats including woodland, grassland and fen-marginated open water. Hedgecourt lake itself is an ancient mill pond resulting from the damming of the river. These habitats support a wide variety of animal life including several locally distributed beetles and a large breeding-bird fauna'.

28. LPP2 Policy DP19 requires that where a proposal is likely to result in direct or indirect harm to irreplaceable environmental assets of the highest designation, such as an SSSI, the granting of planning permission will be wholly exceptional. Framework paragraph 175b) sets out that development on land within or outside an SSSI, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. In both policies, exceptions will only be made where benefits of development at the site clearly outweigh both the impacts on the features of the site and on any broader networks of SSSIs. Policy DP19 also requires that in all cases, overall ecological benefits should be delivered, while the Framework requires proposals to provide net gains for biodiversity.

29. The ecological assessment for Appeal B concludes that the net gain in dwellings would result in negligible or no increase in visitor pressure on the SSSI and as such would have no direct impacts on it. However, no account appears to have been taken of the fact that there is a public footpath leading from Copthorne Road into the SSSI only a few metres from the appeal site. As this is the nearest area of publicly accessible countryside and woodland to the proposed dwelling, this easy access is likely to make the area a convenient and attractive recreational opportunity for future residents and increase the likelihood of them visiting.

30. The development plan identifies the need for considerable additional housing in the District, with Felbridge defined as a village where there is policy support for some new development. There is therefore potential for other housing developments to come forward in the area, including those that may be planned or already permitted. However, the cumulative impacts of the proposal with other developments has not been assessed.

31. The failure to take these factors into account means that I cannot be certain that the conclusions of the ecological assessment are robust. Consequently, taking a precautionary approach, I find that Appeal B is likely to have an adverse impact on the SSSI, either individually or in combination with other developments. Furthermore, it has not been demonstrated that the scheme would provide for net gains for biodiversity or overall ecological benefits. It is therefore necessary to consider whether the proposal would result in benefits that would clearly outweigh this harm.

32. Neither party has provided any substantive evidence of whether the Council can currently demonstrate a 5-year supply of housing land. However, the appellant contends that there has been a substantial shortfall in the supply of housing in the District over the last 3 years and that under the standard method for calculating housing need, housing targets will significantly increase. The Council does not dispute these claims.

33. The proposal would contribute to housing supply in a location with good access to facilities and services. I have no reason to doubt that the site is available and deliverable and could be built out quickly, as supported by the Framework, particularly with the method of construction indicated by the appellant. Construction and occupation of the proposed dwelling would also result in economic benefits. However, given the small scale of development proposed, even in the context of the substantial housing supply shortfall, the benefits would be commensurately small and I therefore give them limited weight.

34. The Framework supports development of suitable windfall sites and suitable PDL within existing settlements[2]. While the appeal site is both a windfall site and PDL, given the harm I have identified to the character of the area and to the SSSI, it has not been demonstrated it is a suitable site for the proposed development. As such, the provision of housing on such a site carries only limited weight.

35. The proposal would only result in a relatively small increase in traffic, which could be accommodated within the local highway network. Widening of the existing access would deliver some improvements to visibility, however there is no substantive evidence before me that the existing situation is hazardous. Therefore, I afford this improvement minimal weight in favour of the proposal.

36. While the appellant intends to use a particular, locally sourced method of construction, the appearance of the proposed dwellings is not before me. Therefore, I cannot be certain that this would be realised and can only afford it minimal weight.

37. Overall, I conclude that the limited benefits from one additional dwelling would not clearly outweigh the impacts of the proposal on the SSSI. Accordingly, Appeal B would conflict with LPP2 Policy DP19 and CS Policy CSP17, and with Framework paragraph 175b).

Other matters

Appeal A

38. Appeal A would contribute to housing supply, with consequent economic benefits. However, even in the context of the substantial housing shortfall, the benefits of 2 additional dwellings can only be afforded modest weight. As a result of the harm identified to the character and appearance of the area and to biodiversity, it has not been demonstrated that this windfall site on PDL is suitable. This therefore carries only limited weight.

39. For the same reasons as Appeal B, the improvement to the access and the suggested construction methods would carry minimal weight.

[2] Paragraphs 68c) and 118c)

Appeals A and B

40. Although the sites are not within a Conservation Area and would not affect any listed buildings, it is nonetheless an important requirement of national and local policy to create well-designed places. For the reasons given above, neither scheme would achieve this.

41. The use of energy efficiency and low carbon measures is required by CS Policy CS14 and there is no substantive evidence before me that the measures proposed for either scheme would do any more then mitigate the impact of the new development proposed. As such, this is of neutral consequence.

42. The existing dwelling is not currently occupied, however there is no substantive evidence before me that it is incapable of being brought back into use. Nor does its condition significantly detract from the character and appearance of the area. Therefore, neither its demolition in respect of Appeal A, or its re-use in respect of Appeal B would result in material benefits.

Balancing and Conclusions

43. Appeal A would result in harm to protected species and to the character and appearance of the area. While the proposal would result in some benefits, these would not outweigh the harm identified.

44. I have already concluded that the benefits of Appeal B would not clearly outweigh the adverse impact of the proposal on the SSSI. It therefore follows that they would not outweigh the totality of the harm that would result from that scheme.

45. Both appeals are therefore dismissed.

L McKay

INSPECTOR