



Appeal Decision

Site visit made on 4 February 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 April 2020

Appeal Ref: APP/Y3615/W/19/3240331

Vacant plot between Homecroft and High Steeps, Peaslake Lane, Peaslake, Guildford GU5 9SY

- 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 Stuart Freeman against the decision of Guildford Borough Council.
 - The application Ref 19/P/00780, dated 1 May 2019, was refused by notice dated 11 July 2019.
 - The development proposed is described as "a detached residence with 4 bedrooms and all usual ancillary facilities, on two levels, on an undeveloped plot. Provision for two car spaces at pavement level with storage facilities for waste bins are also part of the scheme".
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 4 March 2020.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site falls within the Metropolitan Green Belt. The information also indicates that the site lies within the designated settlement boundary of Peaslake. The Council consider that the proposal would constitute limited infilling in villages as defined in the National Planning Policy Framework (the Framework) and that it would not be inappropriate development. The application was not refused on Green Belt grounds and I have found no reason to disagree on this issue. I will determine the appeal accordingly.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area, including the Surrey Hills Area of Outstanding Natural Beauty and Area of Great Landscape Value,
 - the setting of the Peaslake Conservation Area,
 - trees within and adjoining the site and any resulting visual effect, and
 - any protected species.

Reasons

Character and appearance

4. The site is an area of fairly steeply sloping land stretching back from the road. There are some established trees on either side, although the site itself is predominantly clear of vegetation. There is a bank at the frontage with the footway. While there are some properties along this side of the road which are quite prominent, such as the repair garage and The Old Surgery, generally the character is formed by dwellings sited back from the road in an elevated location on the hill side and set amongst trees. Often these plots have parking areas at the front which have been excavated into the slope. This side of the road has a generally well treed and verdant appearance and many of the buildings have a reasonably modest impact on the area as their appearance is filtered from public view by the vegetation. Consequently, the immediate surroundings to the site on this side of the road have a rural village character.
5. The proposed dwelling would be sited on an elevated section of the hillside. The building would be stepped into the slope and to accommodate the length of the building it would be necessary to undertake a reasonably extensive amount of excavation. The quite significant bulk of the building stretching back into the site would be conspicuous in some narrow angled views from the road. The height of the front elevation, the elevated position of the building on the slope and the overall bulk would, from the front of the site, appear as a harmful intrusion of built form on this open site section of land.
6. The works to excavate part of the frontage and provide a car parking area would be clearly visible and add to the combined impact of a significant and prominent change to the visual appearance of the site. The site does not have the benefit of any sizeable and established trees towards the front of the site to help soften the impact of the proposed dwelling. In these circumstances the proposal would appear as a jarring introduction of development and would not assimilate successfully into the landscape in the same way as those nearby dwellings which are positioned further up the slope.
7. The area in front of the dwelling could accommodate planting and I note the plans show 3 new mature trees. However, any planting which was intended to have some height in this location could be directly in front of the main family room on the ground floor and the office on the lower ground floor. I therefore have significant doubts whether this new planting would, in practice, be effective and retained in the longer term as it would, in all likelihood, reduce light to these rooms and hinder the main outlook from the property. In this way the proposal would have a different and greater impact on the area compared with those dwellings in the vicinity which have a similar set back and size because they are set amongst trees.
8. The Old Surgery is a prominent building and its siting is not in general accordance with the pattern and form of the surrounding buildings on this side of the road. I have taken into account all the appellant's arguments regarding this building which are said to favour the approval of the appeal proposal. It appears that the presence of The Old Surgery building and its form and location is linked to the history of a previous building on the site. Nevertheless, I do not consider that because this building is prominent it justifies a further, and in this case, sizeable building that would be prominent and bulky, and unduly detract from the appearance of the appeal site.

9. In mid-distance views from along the road the side boundary trees would screen the proposed dwelling and the parking area would have less of an impact. There are limited views of the site from the other side of the valley. However, in the area in front of the site the impact would be pronounced and cause harm to the character and appearance of the area. This harm could not be satisfactorily ameliorated by a landscaping scheme for the reasons explained above.
10. The site is located within the Surrey Hills Area of Outstanding Natural Beauty (AONB). The wider context of the site is that it lies within the village and this side of the road, which includes the appeal site, contributes positively to the rural character of the settlement and therefore this part of the AONB. While the harm I have identified above would be localised, the proposed dwelling would, nevertheless, erode some of the rural character of this village location for the reasons explained. As a consequence, the scheme would not conserve or enhance the landscape and scenic beauty of this section of the AONB, a matter which the Framework requires to be attributed great weight.
11. The site is also located within the Area of Great Landscape Value (AGLV) and for the same reasons the site would not preserve the distinctive character and appearance of this part of the AGLV.
12. In the light of the above analysis, I conclude that the proposal would harm the character and appearance of the area, including the AONB and AGLV. Consequently, the proposal would not comply with saved Policy G5 of the Guildford Borough Local Plan 2003 (the Local Plan 2003), Policies P1 and D1 of the Guildford Borough Local Plan : Strategy and Sites 2015-2034 (the Local Plan 2019) and the Framework which seek, amongst other things, that all new development will be required to achieve high quality design that responds to distinctive local character, including landscape character, of the area in which it is set.

Setting of Peaslake Conservation Area

13. The Peaslake Conservation Area (CA) is in part significant because it consists of a range of traditional and vernacular buildings, including some more modest cottages as well as the public house and church, often with stone or hedged front boundaries, in a generally verdant village setting. The roads within and leading to the CA contribute to its rural village character and the overall pleasant appearance of the area.
14. The appeal site lies outside but reasonably close to the boundary of the CA. The boundary of the CA in this section of Peaslake Lane runs along the frontage of the road on its eastern side and the CA includes in this area the land to the west of the road. The road within the CA is rural in character with overhanging trees, hedging and stone walls, with no footway. By the site, outside the CA, there a footway and the road is more open in appearance.
15. Within Peaslake Lane, looking past the site towards the CA, the view, with the exception of some elements of the frontages and in particular that of The Old Surgery, is often formed by natural components such as hedging and trees that provide a verdant entranceway to this part of the CA. These are the surroundings in which this part of the approach to the CA is experienced and therefore forms part of the setting of this heritage asset. The bank along the

- front of the site, and the adjoining sloping land behind, forms part of the views towards the CA and contributes positively to its setting.
16. The scheme would replace part of the front boundary bank with an excavated area for the parking of cars, steps and front boundary wall. While the plans show areas of planting, the proposal would, nevertheless, diminish the undeveloped character of the frontage area and replace it with one with a more developed feel with car parking and related hard surfacing. This would erode some of the positive contribution that the site makes to the street scene and the views towards the CA. In this way, the scheme would detract from the setting of the CA.
 17. While the frontage changes would not be dissimilar, in principle, to the excavated parking areas further along Peaslake Lane, these sites are away from the boundary of the CA and would not in themselves justify the harm that the changes to the appeal site would have to the setting of the CA. Notwithstanding the harm that would be caused by the frontage changes, the proposed dwelling itself, set back from the road and generally screened in mid-distance views by the trees when looking towards the CA, would not harm the setting to the CA.
 18. Taking all these matters into account, the effect of the proposal would be to cause minor harm to the setting of this part of the CA and therefore detract from the significance of this heritage asset. The harm to the CA as a whole would be less than substantial within the meaning of paragraph 196 of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal. The benefits of the scheme would be the provision of an additional unit of accommodation, built to high environmental standards, in a location that appears to have reasonable access to services, facilities and public transport. There would be social and economic benefits to the local area both during construction and in subsequent occupation. However, as a single unit of accommodation would be provided these public benefits would be minor and afford no more than limited weight.
 19. It is said that as the site accommodates a main sewer through the land and there is the widened road and front footpath and that these are matters that the public has benefited from for some time. However, I am not aware that this situation would change were permission to be refused and therefore I attribute these benefits very little weight in favour of the scheme.
 20. The Framework advises that any harm to the significance of a heritage asset (including from development within its setting) should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the potential harm to the significance. I have found that the public benefits of the proposal afford no more than limited weight and I judge that they would not outweigh the harm to the setting of the CA and its significance, which although minor, in accordance with the Framework, is required to be attributed great weight.
 21. In the light of the above analysis, I conclude that the proposal would harm the setting of the CA and that this would not be outweighed by the public benefits. The proposal would therefore conflict with saved Policy HE10 of the Local Plan 2003 and the Framework which, amongst other things, indicates that permission will not be granted for development which would harm the setting of a conservation area, or views into or out of that area.

Trees

22. There are no mature or well established trees within the site. There are, however, a range of trees, some mature, close to the boundaries of the site within the adjoining land. Some of the canopies of the adjoining trees overhang the site. These trees and the others along this hillside collectively make a valuable contribution to the character and appearance of the area.
23. It is explained that there is every intention to maintain and protect the trees alongside the boundaries and that, indeed, there would be supplementary planting. I have had regard to the site layout plan that shows the siting of the trees in relation to the proposed footprint of the dwelling. I also note that the public sewer runs through the land and that this is likely to have caused some ground disturbance in the past. The dwelling would be set further from the boundary than the sewer line on that side of the site.
24. Nevertheless, the scheme proposes reasonably extensive excavations of sections of the hillside, some form of foundation to assist with the construction of the dwelling and terrace areas formed to the rear of the property. Earth movements, foundations and the compaction resulting from the scheme would have the potential to damage the root system of the trees in the vicinity of the works. Indeed, the construction process itself, without detailed specifications and work practices in place, would also have the potential to cause harm to the trees.
25. I have not been presented with detailed and comprehensive arboricultural evidence, in accordance with the British Standard, that shows, for instance, the root protection areas and methodology to demonstrate that the works would not cause undue harm to the long term health of the trees.
26. Furthermore, the extent of trees along the side boundaries, some of which given their size and canopy would overhang the site, would make parts of the garden heavily shaded and would be likely to reduce daylight to some windows. Such a situation may very well lead to pressure to lop, top or fell some of the trees.
27. Taking all these matters into account, in the absence of comprehensive and technical evidence to demonstrate that the trees would not be adversely affected during the build process and subsequently, I consider it necessary to take a precautionary approach. The trees are an important and valuable feature of the local area and I am not satisfied that they would not be adversely affected by the proposal.
28. Accordingly, I conclude that it has not been adequately demonstrated that the trees adjoining the site would not be adversely affected by the proposal and that this would not then lead to an unacceptable resulting visual effect. Consequently, the scheme would conflict with the Framework requirement that decisions should contribute to and enhance the natural and local environment.
29. The reason for refusal references saved Policy NE5 of the Local Plan 2003. However, as this regards trees subject to a Tree Preservation Order or within a Conservation Area, which I do not consider to be the case with the trees in question, I do not consider that the policy is applicable in this case.

Protected species

30. I have taken into account the survey undertaken by the appellant and that this indicated that the site does not display the necessary habitats for bats and that there is no evidence of a badger sett. I have also noted that the representations from some local residents who consider the site has been important for wildlife and that there are bats in the nearby trees, the area has been inhabited by badgers, foxes, and the site is a foraging route for deer. There is very limited information before me on any birds and/or invertebrates that may inhabit the site.
31. The site is an open section of land which adjoins properties in a reasonably wooded location within the village. In the wider area there is open countryside and woodland areas. In these circumstances, notwithstanding the appellant's submissions on this issue, in the absence of a detailed and technical ecological survey to demonstrate otherwise, I consider that there is a reasonable likelihood that protected species may be present and could be affected by the development.
32. Circular 06/2005¹ states 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. Given the limited technical evidence before me in this case it is necessary that this matter be examined in greater detail before any permission could be granted. I am not satisfied, having regard to the Circular guidance, this matter could be resolved by a planning condition in any permission because the situation is not exceptional.
33. Accordingly, I conclude that I need to take a precautionary approach because the development has the potential to adversely effect protected species. As a consequence, the scheme has not been demonstrated to comply with saved Policy NE4 of the Local Plan 2003 and the Framework which concerns, amongst other things, species protection.

Other Matters

34. I have taken into account the findings of the Inspector when he considered an appeal for a single dwelling on the site in 2007. However, the policy situation has changed since that time and I have considered the present appeal based on the evidence before me. Consequently, I attribute the earlier appeal decision limited weight.
35. I have highlighted above the main public benefits which would accrue from the proposal in the form of a single dwelling on this site which I attribute limited weight. The harm which I have found would result from the proposal are matters which I afford significant weight and they would outweigh the benefits in this case.

¹ Government Circular - Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System

Conclusion

36. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR