
Appeal Decision

Site visit made on 17 February 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2020

Appeal Ref: APP/N1730/W/19/3241107

Land at Dray House, Broomrigg Road, Fleet GU51 4LR

- 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 David Lofthouse against the decision of Hart District Council.
 - The application Ref 19/00562/FUL, dated 13 March 2019, was refused by notice dated 14 May 2019.
 - The development proposed is the construction of a single dwelling and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above differs from that on the appeal form and decision notice, which is the erection of a detached five-bedroom dwelling, detached garage and associated works. My decision is based on the latter description, since it more accurately describes the proposal.
3. The refusal reasons and the planning application officer report do not refer to any neighbourhood development plan policies. The Council's statement of case confirms that, subsequent to the planning application determination and appeal submission, the Fleet Neighbourhood Plan 2018 – 2032 (FNP) was 'made' on 28 November 2019. The Council states that FNP Policy 10 (General Design Management Policy), Policy 16 (North Fleet Conservation Area) and Policy 17 (Thames Basin Heaths Special Protection Area Mitigation) are relevant to the determination of the appeal. Accordingly, I attach significant weight to the relevant FNP policies in my decision, as it now forms a part of the development plan for the area the appeal site lies within.
4. The Council's statement of case confirms that, since the determination of the planning application, the emerging Hart Local Plan: Strategy and Sites 2016 - 2032 (HLPSS) has reached a more advanced stage of preparation, with consultation in respect of the Proposed Main Modifications and publishing of the Council's response having taken place. The Council considers Policies NBE9 (Historic Environment) and NBE10 (Design) of the HLPSS to be relevant to the appeal determination.
5. The Council has subsequently confirmed that a decision on the adoption of the HLPSS was due to be made at the Full Council Meeting on 26 March 2020, but

that this did not take place due to the Covid-19 situation. The Council intends to adopt the HLPSS at the earliest opportunity.

6. The Council has also confirmed that, following adoption of the HLPSS, Saved Policies GEN1 (General Policy for Development), CON8 (Trees, Woodland and Hedgerows: Amenity Value) and URB18 (Residential Densities in North Fleet and Yateley Conservation Areas) of the Hart District Local Plan 1996-2006 (2009) (HDLP) will continue to be saved, and form part of the development plan. Accordingly, I attach significant weight to the relevant emerging policies of the HLPSS and these saved policies of the HDLP in my determination of the appeal.
7. A Unilateral Undertaking (UU), signed and dated 13 January 2020, was submitted by the Appellant on 14 January 2020 to address the Council's fourth refusal reason in respect of the impact of the proposal on the Thames Basin Heaths Special Protection Area (SPA). I deal with this matter later on in the decision.

Main Issues

8. The main issues are:
 - Whether the proposal would preserve or enhance the character or appearance of the North Fleet Conservation Area (NFCA);
 - The effect upon the living conditions of the occupiers of Pine Ridge, with particular reference to outlook and visual impact;
 - Whether the development would result in increased on-site and off-site flooding; and
 - The effect of the proposal on the SPA.

Reasons

Character and appearance of the NFCA

9. The appeal site is located within the NFCA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that with respect to development affecting buildings or other land in a conservation area, "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area." In addition, Paragraph 193 of the National Planning Policy Framework (the Framework) sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
10. The NFCA Character Appraisal and Management Proposals (2008) (CAAMP) states that the NFCA is predominantly residential, comprising contrasting areas of housing development, with some of it laid out in a grid pattern, and some set to either side of gently curving roads. Most buildings date back to between 1890 and 1922 or later, with some streets being completed in the 1930s.
11. The defining feature of the conservation area is noted to be the spacious plots, with mainly detached houses set back from the road behind mature trees and other planting. The CAAMP states that it is this sylvan quality, together with

some unmade roads, grass verges, and some undulating topography, which gives the conservation area its special character.

12. The site lies within the CAAMP designated Character Area 6: Broomrigg Road and Calthorpe Road, whose key characteristics include: unadopted roads without pavements; curving narrow lanes and undulating topography; abundance of trees and shrubbery making it feel wooded and enclosed; wooded character with the buildings being largely concealed by the planting; varied styles of building, but mainly two-storey with brick or painted render facades. The area in the vicinity of the site ably demonstrates these key characteristics, so that notwithstanding the location within the defined settlement boundary, it has a very rural character and appearance.
13. The appeal site is occupied by a large, detached, two-storey, traditionally designed, hipped roof, dwelling, which dates back to the Inter-War period and reflects the 1920s vernacular. Finished in render, tile hanging and timber cladding under a clay tiled roof, the building has recently been extended, including contemporary single storey front side and rear extensions, and a dormer window and loft conversion. There is also a more recently built detached car barn. However, the original character of the building has been predominantly retained. The buildings are located at the far end of the site, in an elevated position, and largely screened in views from Broomrigg Road by mature trees within the front garden and front boundary hedging. Vehicular access is via a private access drive which is shared with two other dwellings.
14. Accordingly, the appeal site and dwelling exhibit characteristics which are intrinsic to the character and appearance of the conservation area and the site makes a positive contribution to the significance of the NFCA.
15. Important issues identified by the CAAMP include: retaining the historical form of development, consisting of spacious plots with family houses; maintaining existing plot densities; resisting the intensification of uses on the existing plots; protecting front gardens; resisting the potential loss of hedges and other shrubbery; and continuing the dominance of trees and shrubbery.
16. Notwithstanding the proposed plot size, and that the proposed design, height, scale, and materials of the new dwelling would be in keeping with the mix of family dwelling designs within the conservation area, the proposed layout and positioning of the proposal on the site would be harmful to the historic character and appearance of this part of the NFCA. The appeal scheme would result in a 'cluster' of built development within part of the appeal site. This would be at odds with the historic form of development comprising dispersed positioning of dwellings within plots which is characteristic of the appeal site and the neighbouring dwellings. It would also result in the redevelopment of part of the front garden of the host property, contrary to one of the aforementioned objectives of the CAAMP.
17. The proposed 'private close' layout of development, with the two dwellings arranged to face each other, both with detached garages to the side and a shared access and turning area in between, would comprise an overly intensive form of built development in this part of the site. The built layout would denser and more formal than the irregular, spacious and landscape-dominated arrangement of dwellings which is typical of this part of the conservation area. Also, when viewed from a distance, the proposed positioning of the existing

dwelling in relation to Broomrigg Road would be perceived as backland development.

18. Whilst retaining the most significant trees, the proposal would result in the loss of some soft landscaping on the site, including adjacent to the boundary with Pine Ridge. The positioning of the new dwelling and garage in close proximity to that side boundary, and the lack of compelling evidence to demonstrate that mature boundary planting could be provided adjacent to the house and garage, and be effective over time, would result in a hard, cramped form of development in relation to the plot boundary, contrary to the prevailing character of dwellings sited within spacious secluded landscaped settings, where trees and shrubbery are dominant.
19. Both main parties are agreed that the proposed plot size of the new dwelling would be 0.19 hectares and that remaining for the host property would be just over 0.2 hectares. As such, in respect of the density requirements of HDLP Policy URB18 and FNP Policy 16, the appeal scheme is compliant. I also acknowledge that there are a range of plot sizes within the conservation area, many of which are similar to those of the appeal proposal. However, these policies also require that there be no demonstrable harm to the character and visual amenity of the area.
20. The appellant has drawn my attention to two planning permissions elsewhere within the conservation area for dwellings on plots of a similar size to that of the appeal proposal, noting that the development of the area is evolving over time. However, plot size alone is not the only determining criterion. On the basis of the information before me, I do not find the site circumstances and the development details of these schemes to be directly comparable to those of the current appeal, in respect of the form of development proposed or its relationship with neighbouring properties and the surrounding area. In any event, I must determine the appeal on the basis of the particular circumstances of the appeal site and the merits of the scheme before me.
21. For the above reasons, the proposed development would fail to preserve or enhance the character or appearance of the NFCA. It would harm its significance as a heritage asset. As such, the appeal proposal would not accord with Saved Policies GEN1, GEN4, URB12, URB18, CON8 AND CON13 of the HDLP, emerging Policies NBE9 and NBE10 of the HDLPSS, Policies 10 and 16 of the FNP and the NFCA CAAMP.
22. These policies, amongst other objectives, aim to ensure that development proposals comprise high quality design, which preserves or enhances the character and appearance of conservation areas, including in respect of layout, landscaping, siting, separation, density, the enhancement of soft landscaped front gardens, and the protection of the NFCA from unsympathetic development of private gardens. For similar reasons, the proposal would also be contrary to Policies of the National Planning Policy Framework (the Framework) which seek to conserve and enhance the historic environment as set out in Chapter 16.
23. In terms of the advice in paragraph 196 of the Framework, the harm to the conservation area would be 'less than substantial'. The Framework sets out the need to address the 'less than substantial harm' in a balanced manner against the public benefits associated with the scheme.

24. The appeal proposal would be located in an accessible location, close to the community facilities and services and public transport connections in Fleet. It would bring economic and social benefits, including construction jobs, increased local spend and a sustainably located home which would boost the supply of housing in an area of identified need, providing a five-bedroom family sized dwelling. As one additional dwelling would result, though, these matters attract modest weight as public benefits. They are outweighed by the harm the proposal would cause to the character and appearance of the NFCA.

Living Conditions

25. Pine Ridge is a detached, two storey house with a number of principal ground and first floor windows on its rear elevation, serving the kitchen, living room and bedrooms. These look out onto a peaceful and secluded landscaped rear garden. Also, there is a paved patio immediately to the rear of the building which has direct access via double doors from the living room and extends across the width of the rear elevation. I observed that it appears to be a well-used area of external amenity space by virtue of the presence of domestic paraphernalia, including garden furniture, a retractable sun blind and a clothes drier.
26. I have noted the difference in opinion between the main parties in respect of the distance between the two-storey side wall of the new dwelling and the boundary with Pine Ridge. Notwithstanding this, even based on the Appellant's figure, the new dwelling and detached garage would introduce new built development within close proximity to that boundary.
27. Ground levels rise towards the rear of the appeal site and Pine Ridge and it appears that the new dwelling would be sited at a higher ground level than that of the neighbouring house. In the absence of cross-section drawings that include the height of the new dwelling in relation to Pine Ridge, and detailed landscaping proposals to demonstrate that meaningful boundary planting could be provided to effectively screen the new building, I find that the new dwelling is likely to have an overbearing impact on the outlook from the rear of the property and the rear garden of Pine Ridge, which would be detrimental to the current level of amenity enjoyed by the residents of Pine Ridge. This is due to the combined full two storey height, bulk and massing of the new dwelling, with a steep hipped roof and gable-ended rear two storey projection, together with the cropped gable ended double garage, so close to the neighbouring boundary.
28. In making this assessment, I have had regard to the existing tranquil, secluded nature of the rear garden of Pine Ridge, which is typical of the low-density, sylvan nature of the appeal site locality. Such locations are more sensitive to the introduction of new built development than more densely built-up residential areas.
29. For the above reasons, I am unable to conclude that the proposed development would not unacceptably harm the living conditions of the occupiers of Pine Ridge in respect of outlook. As a consequence, it has not been satisfactorily demonstrated that the proposal would accord with the objectives of Saved Policy GEN1 of the HDLP, which amongst other aims, seeks to ensure that new development does not adversely affect the amenities of existing residents. This is consistent with the Framework, which seeks to ensure that developments will

function well and promote a high standard of amenity, health and well-being for existing and future users (paragraph 127).

Flood risk

30. In response to the Council's third refusal reason, the appellant has submitted a Percolation Test Report (PTR) in order to demonstrate that surface water arising from the appeal proposal is capable of being satisfactorily discharged to an on-site soakaway. The Council's statement of case does not include a response to the PTR. The balance of the evidence before me favours the Appellant on this issue. However, given my findings on the first two main issues, there is no need for me to consider this matter further, since it will not alter the appeal decision.

Thames Basin Heaths SPA

31. The appeal scheme lies within 5 kilometres of the SPA, which is an internationally designated site of nature conservation importance, with special reference to ground nesting birds. The proposal is likely to have a significant effect in combination with other plans and projects on the SPA through increased recreational pressure.
32. The appellant has provided a signed and dated UU under Section 106 of the Town and Country Planning Act to secure financial contributions towards the provision of a Suitable Alternative Greenspace (SANG) and a financial contribution to help fund Strategic Access Management and Monitoring (SAMM).
33. The Council has not commented on the UU, which was submitted after the Council's statement of case. I have noted that the Council's statement of case confirms that, since an Appropriate Assessment (AA) has not been undertaken in accordance with the Conservation of Habitats and Species Regulations 2017, the submission of a UU to secure SANG and SAMM payments would not overcome this refusal reason. The Council also advises that the Council's SANG allocation criteria for requires the development to be fully compliant with existing or emerging development plan policies, and, as such, would not be eligible.
34. In the context of this appeal, the responsibility for assessing the effects of the proposal on the SPA falls to me as the competent authority. Notwithstanding the above comments of the Council, were I minded to allow the appeal, I would need to carry out an AA before considering the proposed mitigation set out in the UU, since the proposal would be likely to have a significant effect on the SPA. However, as other main issues provide clear reasons for dismissing the appeal, I have not had cause to pursue undertaking an AA. As a consequence, I do not need to consider the UU and this matter further, since any findings on this issue would not change the appeal outcome.

Other Matters

35. I have noted that the proposal represents an amended scheme from that refused under planning application Ref 18/02195/FUL. Whilst the changes to the scheme have been noted, including alterations to the design and siting of the new dwelling, this does not alter my findings with respect to the current proposal.

Conclusion

36. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal. The proposal conflicts with the development plan as a whole and there are no material considerations to outweigh this conflict. As a consequence, the appeal should be dismissed.

S Leonard

INSPECTOR