



Appeal Decision

Site visit made on 6 October 2020

by Martin Small BA (Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th October 2020

Appeal Ref: APP/R3650/W/20/3253713

Plot 3, Springfield, 30 Frensham Vale, Lower Bourne, Farnham, GU10 3HT

- 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 & Mrs C Abrahams against the decision of Waverley Borough Council.
 - The application Ref WA/2019/1706, dated 9 October 2019, was refused by notice dated 10 March 2020.
 - The development proposed is erection of detached dwelling with associated drive and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of detached dwelling with associated drive and parking at Plot 3, Springfield, 30 Frensham Vale, Lower Bourne, Farnham, GU10 3HT, in accordance with the application Ref WA/2019/1706, dated 9 October 2019, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs C Abrahams against Waverley Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. For clarity, and in the light of the planning history of the land associated with Springfield, I have included 'Plot 3' with the site address as set out in the appellant's appeal statement. Permission has previously been refused for a dwelling on both Plot 1 and Plot 2 but subsequently allowed on appeal¹. As all parties were aware of these decisions in addressing the appeal before me, I have had regard to these decisions in the assessment of the current proposal and am satisfied that no one has been prejudiced by my doing so.
4. The access drive from Frensham Vale to the site of the proposed dwelling has been partially constructed to provide access to the existing dwelling. I have determined the appeal on this basis.
5. Since the application was determined, the Farnham Neighbourhood Plan (FNP) has been 'made' and replaces the previous FNP. Its policies therefore carry full weight in my consideration of the appeal proposal.

¹ APP/R3650/W/19/3240797 and APP/R3650/W/19/3240800

Main Issue

6. The main issue is whether safe access and egress to and from the site could be achieved during flood conditions.

Reasons

7. The application was accompanied by a Flood Risk Assessment (FRA) (Patrick Parsons NPPF Flood Risk Assessment August 2019). The FRA concludes that the appeal site within the redline boundary, including the access drive from Frensham Vale, is entirely within Flood Zone 1, as it lies entirely outside of the 1 in 100 year storm area including 70% climate change allowance. This is demonstrated by the predicted flood level plan in Appendix G of the FRA, which is based on flood levels from the HR Wallingford 2012 Study and the ground levels from the topographical survey commissioned for the planning application.
8. In its initial response to the proposed development dated 26 November 2019, the Environment Agency (EA) raised no objection, although stating that the proposed access route was within the 1% annual exceedance probability (AEP) (1 in 100 year) plus an appropriate allowance for climate change flood extent. In a subsequent letter dated 4 December 2019, the EA accepted that the access route within the redline boundary would be outside Flood Zone 3.
9. The conclusion that the entire application site is within Flood Zone 1 is challenged by local residents and questioned in the report from Dr Paul Garrad prepared for the Frensham Vale Action Group (FVAG). Dr Garrad contends that superimposing the HR Wallingford modelled flood levels on different ground levels is technically not acceptable. However, this approach is not questioned by the EA in its responses to the proposed development. As the EA is a statutory consultee on flooding matters, considerable weight is given to its view. Therefore, I am satisfied that the appeal site, including the access drive, is within Flood Zone 1. This is accepted by the Council. The site satisfies the sequential test and there is no need for a subsequent exception test.
10. Although the site is considered not to be at risk from fluvial flooding, the FRA acknowledges that there is a risk of surface water flooding to the site based on an assessment of the "medium" risk (up to 1 in 100 years) scenario, with a predicted water depth of less than 300 mm. The FRA concludes that the worst possible flood hazard from flood water on the site is "low", which should not pose a risk to occupants of the proposed dwelling and thus indicates a safe access and egress along the access drive.
11. EA flood data indicates that Frensham Vale to the north-east and south-west of the access drive to and from the site is liable to flooding. This is corroborated by photographs of the road near the appeal site being flooded following a period of heavy rain submitted by local residents. In its letter dated 4 December 2019, the EA advised the Council that the road is located within the 1% annual exceedance probability (AEP) (1 in 100 year) plus an appropriate allowance for climate change flood extent. The EA commented that the Council should ensure that safe access and escape routes are included where appropriate, in accordance with paragraph 163 of the Framework.
12. However, there is no demonstration in the submitted photographs of the depth of the flood water, although those of a car driving through the water indicate

that the depth in that instance is less than 300 mm. Neither do I have any evidence of how long this flooding lasted. Furthermore flooding, particularly along roads, can result from other causes such as blocked drains or inadequate maintenance of drainage ditches. Therefore, the evidence before me does not demonstrate that travelling along the road to access land within Flood Zone 1 would not be safe.

13. The Waverley Strategic Flood Risk Assessment 2018 (SFRA) sets out that a safe access and egress route to and from a site should allow occupants to reach land outside a flooded area (e.g. within Flood Zone 1) using public rights of way without the intervention of emergency services or others. However, where a dry access / egress is not possible, the route should have a low flood hazard.
14. Whilst the SFRA indicates that 'dry islands' should be treated the same as for the level of flood risk in the area surrounding them, 'dry islands' are defined as areas of slightly higher ground which are less prone to flooding than the land around them and can be surrounded by water in times of flood. I have no evidence that the appeal site would be surrounded by water in a flood. Therefore, the proposed development would accord with the guidance of the SFRA.
15. Notwithstanding its later comments, the EA has not raised any objections to the proposed development, nor has Surrey County Council as the Lead Local Flood Authority (LLFA). Therefore, whilst I acknowledge the concerns of the Borough Council and local residents, on the basis of the technical evidence before me, there is no compelling reason for me to set aside the lack of objection from the EA or the LLFA in respect of flood risk.
16. I therefore conclude that that a safe access and egress to and from the site could be achieved during flood conditions. Accordingly, in this respect, the proposal would conform with Policy CC4 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites (2018) (the Local Plan). This policy requires development to be located, designed and laid out to ensure that it is safe and that the risk from flooding is minimised whilst not increasing the risk of flooding elsewhere and that residual risks are safely managed. The proposal would also conform in this respect with Policy CC1 of the Local Plan which sets out that development should, amongst other things, address issues of flood risk through the application of Policy CC4 of the Local Plan.
17. The proposal would also accord with paragraphs 108 (b) and 163 of the National Planning Policy Framework (the Framework), which requires safe and suitable access to the site for all users and safe access and escape routes.

Other Matters

European Designated Sites

18. The appeal site lies within 7 km of the Thames Basin Heaths Special Protection Area (SPA) and within 5 km of the Thursley, Hankley and Frensham Commons (Wealden Heaths Phase 1) SPA and the Thursley, Ash, Pirbright and Chobham Special Area of Conservation (SAC). The qualifying features of these European Designated Sites are breeding populations of ground nesting birds; Nightjar, Dartford Warbler and Woodlark and the heathland habitats on which they rely.

The birds and their habitat are threatened by recreational disturbance from visitors and traffic-related air pollution.

19. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) require the competent authority to consider whether or not the proposal could adversely affect the integrity of these protected sites, either alone or in combination with other plans or projects. This responsibility falls to me in the context of this appeal.
20. The proposed development would result in an increase in the number of people living permanently within the buffer zone of the protected sites. However, the appeal decisions for Plots 1 and 2 note the availability of alternative recreational spaces nearer to the appeal site than the nearest European Designated Site and the negligible pollution associated with traffic movements from the dwellings proposed on Plots 1 and 2. The additional pollution associated with traffic movements from Plot 3 would also be negligible. Accordingly, even in combination with other plans and projects, the proposal would not give rise to a likely significant effect on the SPAs or SAC from any additional use or pollution.
21. Natural England (NE) has advised that it does not consider that an Appropriate Assessment is required for development on Plot 3 or that the proposal would result in an adverse effect on the integrity of the SPAs or SAC due to its small scale and distance from the designated sites. As the statutory consultee on ecological matters, NE's views carry considerable weight. I am therefore satisfied that there would be no risk of an adverse effect on the integrity of the SPAs or the SAC arising from the proposed development.

Other considerations

22. A number of objections were made to the proposed development by Farnham Town Council, the Farnham Society, FVAG and local residents on grounds including the character and appearance of the area. The locality of the appeal site is characterised by large detached dwellings set back from the road in substantial plots with development on the north side of Frensham Vale to the west of Douglas Grove being more sporadic than that to the south side. Mature hedges and trees give the area a verdant, semi-rural character and appearance.
23. Springfield lies just outside the built-up area boundary of Farnham. However, the appeal site is located in the northern corner of the extensive grounds of Springfield and would be hidden from the road by the substantial intervening vegetation, including a belt of trees along the road protected by a Tree Preservation Order (TPO). The proposed dwelling would be set in its own large plot with woodland to the north and east, also protected by a TPO. It would be accessed from the road by an existing recently constructed driveway.
24. Therefore, although the proposal would marginally erode the more sporadic pattern of development, the effect on the wider landscape would be both limited and localised and the semi-rural character and appearance of the area would be maintained. The proposal would not lead to the coalescence of any settlements. I therefore consider that the proposed development would not unacceptably adversely affect the character and appearance of the area.

25. I have had regard to the representations made on other matters including wildlife, the felling of trees, the newly-constructed access drive and the lack of need for a new dwelling. However, adequate protection of wildlife can be secured by conditions were planning permission to be granted and none of the other matters have been determinative in this case.

Conditions

26. In addition to the standard time limit, the Council has suggested a number of conditions in the event that the appeal was allowed. I have considered these in light of the tests set out in paragraph 55 of the Framework and the Planning Practice Guidance, amending them where necessary for the sake of clarity, precision and logicity.

27. It is necessary to specify the approved plans in the interests of certainty. To ensure highway safety and to make adequate provision for vehicles on the site, conditions are needed to ensure that construction is undertaken in accordance with an agreed Construction Method Statement and to secure parking and turning areas. A surface water drainage scheme is required to ensure that the development does not increase flood risk on or off the site.

28. Conditions regarding materials and refuse / recycling are necessary in the interests of the character and appearance of the area. A restriction on working hours during construction is necessary to protect the living conditions of the occupiers of nearby properties. To promote biodiversity, conditions are justified to ensure safe site clearance, enhancements for wildlife and controlling external lighting. Secure cycle parking and an electric car charging point are required to promote the use of sustainable transport. A condition to secure the provision of high-quality broadband is necessary to comply with the development plan.

29. The conditions relating to the Construction Method Statement and surface water drainage need to be pre-commencement conditions to ensure that preparations for the works, including deliveries of equipment or materials, are undertaken in a satisfactory way. I have consulted the appellants on these conditions and they have confirmed their agreement.

Conclusion

30. I have found that a safe access and egress to and from the site could be achieved during flood conditions. The proposal would not result in unacceptable harm to the character and appearance of the area or the intrinsic beauty of the countryside. I therefore conclude that the proposal complies with the development plan as a whole and there are no other considerations that indicate that a decision should be taken other than in accordance with the development plan.

31. For this reason, the appeal is allowed, subject to conditions.

Martin Small

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SL300/B, PL302/*, PL303/*, PL304/*, PL301/D, PL300/A.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site personnel, operatives and visitors;
 - ii) the loading and unloading of plant and materials;
 - iii) the storage of plant and materials;
 - iv) measures to prevent the deposition of materials on the highway; and
 - v) on-site turning for construction vehicles.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development shall take place until details of the design of a surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The design must satisfy the SuDS Hierarchy and be compliant with the National Planning Policy Framework and the accompanying Planning Practice Guidance. The dwelling hereby permitted shall not be occupied until the scheme has been implemented in accordance with the approved details.
- 5) No development above slab level shall take place until details of the materials to be used in the construction of the development hereby permitted and hard surfaces have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) Construction works, including works of site clearance and ground preparation and deliveries to and from the site shall take not take place other than between 08.00 and 18.00 hours on Monday to Friday, between 08.00 and 13.00 hours on Saturdays and at no time on Sundays or on Bank or Public Holidays.
- 7) The development shall only proceed in a precautionary manner that will avoid the killing or injuring of any individual reptiles that may be identified during development. Precautionary working methods should follow best ecological practice and should include;
 - i) All clearance works should ideally be undertaken when common reptiles are likely to be fully active i.e. during the April to September period;
 - ii) Clearance of logs, brash, stones, rocks or piles of similar debris will be undertaken carefully and by hand;
 - iii) Clearance of tall vegetation should be undertaking using a strimmer or brush cutter with all cuttings raked and removed the same day. Cutting

- will only be undertaken in a phased way which may either include: cutting vegetation to a height of no less than 30mm and clearing no more than one third of the site in any one day, or cutting vegetation over three consecutive days to a height of no less than 150mm at the first cut, 75mm at the second cut and 30mm at the third cut;
- iv) Following removal of tall vegetation using the methods outlined above, remaining vegetation will be maintained at a height of 30mm through regular mowing or strimming to discourage common reptiles from returning;
 - v) Ground clearance of any remaining low vegetation (if required) and any ground works will only be undertaken following the works outlined above;
 - vi) Any trenches left overnight will be covered or provided with ramps to prevent common reptiles from becoming trapped;
 - vi) Any building materials such as bricks, stone etc, will be stored on pallets to discourage reptiles from using them as shelter. Any demolition materials will be stored in skips or similar containers rather than in piles on the ground.

Should any common reptiles be discovered during construction, which are likely to be affected by the development, works will cease immediately. The developer will then seek the advice of a suitably qualified and experienced ecologist and works will only proceed in accordance with the advice they provide.

Should Sand Lizard be identified as present on the site, all works should cease immediately and Natural England contacted as a European Protected Species licence may be required in order to avoid contravention of European legislation.

- 8) The development hereby permitted shall not be occupied until the biodiversity enhancements set out in Section 5 of the Ecology Appraisal: Plot 3, 30 Frensham Vale, Farnham, prepared by David Archer Associates, dated October 2018, have been incorporated into the development, including;
 - i) Bird and bat boxes erected on or integral within the new building;
 - ii) Use of native species when planting new trees and shrubs, preferably of local provenance from seed collected, raised and grown only in the UK, suitable for site conditions and complementary to surrounding natural habitat.
- 9) The dwelling hereby permitted shall not be occupied unless and until space has been laid out within the site in accordance with the approved plans for the parking and turning of vehicles so that vehicles may enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated purpose throughout the lifetime of the development.
- 10) The dwelling hereby permitted shall not be occupied until a fast charge electrical socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) has been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The fast charge electric socket shall be retained and maintained to the satisfaction of the local planning authority.

- 11) The dwelling hereby permitted shall not be occupied until facilities for the secure parking of bicycles within the development site have been provided in accordance with the approved plans. The secure bicycle parking shall be retained for its designated purpose throughout the lifetime of the development.
- 12) The dwelling hereby permitted shall not be occupied until the highest available speed broadband infrastructure has been installed and made available for use unless otherwise agreed in writing by the local planning authority.
- 13) The dwelling hereby permitted shall not be occupied until provision for the storage and disposal of refuse and recycling has been made as shown on the approved plan PL301/D.
- 14) No external lighting shall be introduced on the site unless and until details have first been submitted to and approved in writing by the local planning authority. The external lighting shall be implemented in accordance with the approved details and thereafter retained as such.

End of Schedule