



Appeal Decision

Site visit made on 11 January 2021

By Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 04 February 2021

Appeal Ref: APP/R3650/W/20/3258296

Land at 18 Moor Park Lane, Farnham GU9 9JB

- 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 Mrs N Hibbert against the decision of Waverley Borough Council.
 - The application Ref WA/2019/1610, dated 19 August 2019, was refused by notice dated 9 July 2020.
 - The development proposed is described as 'erection of a single dwelling (resubmission of WA/2019/0001)'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single dwelling at land at 18 Moor Park Lane, Farnham, GU9 9JB in accordance with the terms of the application, Ref WA/2019/1610, dated 19 August 2019, subject to the conditions set out in the attached schedule.

Procedural Matters

2. I have taken the appeal site address from the Council's refusal notice and the appellant's appeal form as this is more precise than the address on the planning application form.
3. The description of development in the banner heading above has been taken from the planning application form. However, in the interests of precision and clarity, I have amended the description of development in the decision above. This has been amended to omit reference to 'resubmission of WA/2019/0001' as this in itself does not describe any part of the development.
4. On 25 January 2021, after the lodging of the appeal, the Council advised me that the area around (and including) the appeal site was, on the 22 January 2021, designated as a new Conservation Area (the Shepherd and Flock Conservation Area). I return to this matter later.
5. At the planning application stage, the appellant submitted a planning obligation by way of a unilateral undertaking dated 18 February 2020 pursuant to section 106 of the Act¹. This provides for financial contributions towards Strategic Access Management and Monitoring (SAMM) and Suitable Accessible Natural Green Spaces (SANG). The Council has identified that these sums would provide a satisfactory means to secure appropriate mitigation towards the Thames Basin Heaths Special Protection Area. However, as decision maker it is incumbent upon me to consider whether the proposal would be likely to

¹ Town and Country Planning Act 1990

have a significant effect on the integrity of the Thames Basin Heaths Special Protection Area. It is therefore necessary to still consider this as a main issue.

Main Issues

6. Accordingly, the main issues are the effect of the proposal on (i) the character and appearance of the area; and (ii) the integrity of the Thames Basin Heaths Special Protection Area (the SPA).

Reasons

Character and appearance

7. The appeal site is located on the north side of Moor Park Lane, within the centre of the Shepherd and Flock roundabout. While it is located within the developed area of Farnham, it is also located within an Area of Strategic Visual Importance (ASVI).
8. Travelling in an easterly direction, beyond the Shepherd and Flock public house, there is a linear cluster of detached and terraced properties, generally positioned close to Moor Park Lane. The site is an area of land to the east of the cluster of dwellings and to the west of No 18 Moor Park Lane, a substantial detached two storey property. The proposed detached dwelling would be positioned close to Manor Park Lane and so would reflect the prevailing layout of development within the area.
9. Today Moor Park Lane is isolated within the roundabout but was once a major route running east to west between Winchester and Canterbury, whilst also being a principle route to Waverley Abbey and Moor Park House. The latter eighteenth century development of the mill, labourer's cottages and Victorian houses that sit along the road are a reminder of the historic importance of Moor Park Lane prior to the construction of the major twentieth century road configuration.
10. The proposed dwelling would be located around 40 metres north east of No 5 Moor Park Lane (Bourne Place), which is a substantial property of a Georgian design, built of red brick with a half-hipped tiled roof. It dates from the eighteenth century and is a Grade II listed building located on the south side of Moor Park Lane. Further west along Moor Park Lane is Weyside, which is an unusual building in the Gothic revival arts style, built of red brick and featuring a large amount of brick detailing, with a slate roof. It is identified as a Building of Local Merit. Nos 13 to 17 Moor Park Lane date from the late nineteenth century and consist of a row of two storey terraced dwellings. They have a brick built base, timber with white wash on the upper floors and a tiled roof and is of a similar age and style to that of the original building of No 18. Ivy Cottage is an early eighteenth century building formed of red brick with a clay tile roof and is a Grade II listed building located opposite the Shepherd and Flock public house and so some distance from the appeal site. On the northern side of Moor Park Lane, between the site of the proposed development and No 20 is The Bothy, which is a more recently built dwelling with red brick walls and a tiled roof. Thus, based on the evidence before me and my observations the buildings along this section of Moor Park Lane vary significantly in architectural style and age.
11. The design of the proposed new dwelling would be characteristic of an early twentieth century building and would adopt many of the materials found in

other buildings locally, whilst also being reflective of change in architecture more broadly. It would have a brick built base with timber and white washed render on the upper elevations and clay tiles. Thus, its appearance would be similar to that of No 18 and other properties further west along this section of Moor Park Lane. By virtue of the proposed gable ends the style of the building would be reflective of the local vernacular of the area and the single chimney stack would be in keeping with other dwellings in the area. The proposed two storey dwelling would be built into the slope of the land, with its side elevation appearing as single storey. In terms of scale and bulk, the property would not be excessive in comparison to the size of other buildings along this section of Moor Park Lane. Indeed, it would be no greater in height than Bourne Place, which stands half a storey higher than the buildings around it, which are all two storeys tall.

12. Overall, for the above reasons, the proposed development would be sympathetic to local architecture in terms of its design, bulk and scale. Consequently, it would not cause harm to the character and appearance of the area or streetscene. Moreover, by virtue of the location of the appeal site within the built-up area boundary of Farnham the proposal would not undermine the core objective of the ASVI, which is to prevent the coalescence of developed areas.
13. The proposal would, therefore, for the above reasons, accord with the design aims of Policy TD1 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 (LPP1); retained Policies D1 and D4 of the Waverley Borough Council Local Plan 2002 (LP); and Policy FNP1 of the Farnham Neighbourhood Plan 2013–2032 (NP). Taken together, these policies seek to ensure that new development is of a high quality and inclusive design that responds to the heritage and distinctive character of the area in which it is located and is appropriate to the site in terms of its scale and appearance.

Special Protection Area

14. The appeal site is located within the 400 metre to 5 kilometre buffer zone of the SPA, which is part of a complex of heathlands in southern England that together support a significant proportion of the global breeding populations of three vulnerable and uncommon ground nesting birds, the Dartford Warbler, Nightjar and Woodlark. The birds and their habitats are threatened by recreational disturbance by visitors. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires the competent authority to carry out an appropriate assessment in circumstances where the proposal is likely to have a significant effect on a European site, either alone or in combination with other plans or projects. This responsibility now falls to me in the context of this appeal.
15. The proposal would increase the number of people living permanently within the buffer zone of the SPA. In this case, I am satisfied that the proposal would likely result in recreational pressure in terms of the use of the SPA. Given the vulnerability of the birds and their habits to such use, I consider that the effects of the proposed dwelling, both on its own and in combination with other development projects, is such that it is likely to have significant effects on the integrity of the SPA. I must therefore consider whether measures could be put in place to avoid or mitigate the impacts of increased recreational pressure arising from the proposed development.

16. The Waverley Borough Council Thames Basin Heaths SPA Avoidance Strategy Review 2016 (the Avoidance Strategy) is in place to provide the possibility of opportunities to avoid or mitigate the potential for the aforementioned adverse effects. This is through the provision of alternative recreational space to divert people away from the SPA, together with access management of the SPA. The Avoidance Strategy provides guidance on the level of avoidance measures that the Council expects to see incorporated within planning applications in the light of Natural England's advice. In this instance, 'avoidance measures' means providing or contributing towards Suitable Alternative Natural Greenspace (SANG) and contributing towards a programme of Strategic Access Management and Monitoring (SAMM) of the SPA. I am satisfied that the Avoidance Strategy provides a strategic and site-specific solution to ensure the requirements of the Habitats Regulations are met with regard to the in-combination effects of increased recreational pressure on the SPA arising from new residential development.
17. The Council seeks to mitigate likely significant effects on the integrity of the SPA through the collection of contributions, details of which are set out within the Avoidance Strategy. These contributions are used to fund a warden service, monitor visitors, provide bird surveys, work with landowners, and provide education and communication with key organisations, to reduce disturbance of birds. I am satisfied that the required financial contribution, which the Council and the appellant have already agreed by way of the aforementioned unilateral undertaking, would fully address the effects of the development on the SPA.
18. In summary, I am satisfied that the financial contribution is required in order to avoid an adverse effect on the integrity of the SPA. Furthermore, Natural England confirmed that it had no objection to the proposal provided that the requisite SANG / SAMM payments are secured. I am also satisfied that the planning obligation meets the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the National Planning Policy Framework (the Framework).
19. Consequently, I conclude that the proposal would accord with Policies NE1 and NE3 of the LPP1; Policy FNP12 of the NP; and paragraph 175 of the Framework. Taken together these policies, amongst other things, seek to ensure that adequate measures are put in place to avoid or mitigate any potential significant adverse effect on the ecological integrity of the SPA.

Other Matters

20. As noted above, the proposed development is located around 40 metres away, further east along Moor Park Lane, from the Grade II listed Bourne Place. It is therefore incumbent upon me to pay special attention to the desirability of preserving the setting of this designated heritage asset in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I have considered the effect of the proposed development on the setting of the listed building. The principle elevation of the listed building faces east with its side elevation facing Moor Park Lane. Taking into account these factors, in combination with the separation distance and the natural screening afforded by the trees along the south side of this section of Moor Park Lane, there would be no harm to the setting of the listed building.

21. The appeal site now lies within the Shepherd and Flock Conservation Area (CA). I have a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
22. The Council has presented me with its Appraisal and Management Plan (adopted 22 January 2021) for the CA. It explains that the CA is divided into two Character Areas, with a zone of transition between them. The site lies within Character Area 1: Moor Park Lane (South), which contains the majority of the dwellings within the CA, some of which I have referred to above in paragraph 10.
23. The significance of the CA derives from its special historic and architectural interest as an area that developed along the Guildford Road junction, beginning with buildings that were part of Bourne Mills, which played an important part in Farnham's seventeenth century corn market. The aforementioned two listed buildings and the Building of Local Merit all date from the eighteenth century and are all located along the southern side of Moor Park Lane.
24. I have already found that the proposal would not cause harm to the character and appearance of the area or streetscene. Owing to the design of the proposed dwelling, which would reflect an early twentieth century arts and craft building, not too dissimilar to No 18, it would not harm the special interests of the CA. Consequently, the proposal would preserve the character and appearance of the CA and not harm its significance.
25. Moreover, I note that the Council, within the context of its acknowledged intention to designate the interior of the Shepherd and Flock roundabout as a Conservation Area and so, at the time it determined the application considered the area as a non-designated heritage asset, raised no concern in regard to this matter.
26. For the above reasons, the proposed development would adhere to Policy HA1 of the LPP1 and retained Policy HE8 of the LP. These policies, collectively, seek to ensure that the significance of the heritage assets within the Borough are conserved or enhanced by safeguarding and managing Waverley's rich and diverse heritage, including designated and non-designated assets and their setting.
27. Interested parties have raised a number of concerns about access arrangements to the site of the proposed development. These include concerns about increased traffic off the roundabout, conflict with other users of the bridleway that runs adjacent to the application site and parking arrangements. However, the County Highway Authority has undertaken an assessment in terms of the likely net additional traffic generation, access arrangements and parking provision and concluded that the proposal would not have a material impact on the safety and operation of the adjoining public highway. Consequently, it has not objected to the proposal. Based on the information before me I see no reason to disagree with the conclusion reached by the highway authority. Owing to the size of the appeal site I am satisfied that there would be sufficient space to accommodate the requirement for off-street parking and I note that the Council raised no objection in this regard.
28. Comments have also been made concerning the use of the bridleway for access and specifically the right of access over it. The planning process does not

override separate legal rights, nor does it provide legal rights where none currently exist. As such, it remains for the appellant to secure and maintain these rights, separately from the planning application and appeal process.

29. I have taken into account all other matters raised but these do not change my conclusion that the appeal should be allowed.

Conditions

30. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary, I have amended the wording of the suggested conditions in the interests of precision and clarity. The appellant was given the opportunity to comment on the Council's suggested planning conditions and has expressly agreed to the pre-commencement conditions.
31. The Council has not suggested a time limit condition. In the absence of any other information in regard to this matter, I have imposed the standard three-year time limit condition. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of certainty. Conditions 3, 4 and 5 are required in the interest of the character and appearance of the area and the protection of the historic environment. Conditions 6 and 7 are required to protect the privacy of the occupiers of the adjacent property.
32. The environmental pollution control officer has advised that the development site is within the area of a former gravel pit and does not know if the gravel pit has been infilled and if so with what type of material. Therefore, conditions 8, 9 and 10 are required to ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. Finally, a condition is required to ensure the provision and establishment of a reasonable standard of landscaping.

Conclusion

33. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Andrew Bremford

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: 'Site and Location Plan' 001; 'Proposed Plans' 002; and 'South & West, North & East Elevations' 003.
- 3) No above ground development shall take place until samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 4) Before relevant works begins, drawings to a scale not smaller than 1:5 fully describing the following details, must be submitted to and approved in writing by the local planning authority. The works must not be executed other than in complete accordance with these approved details a) Windows, these drawings must show cross section frame, transom, mullions, glazing bars etc, and method of opening; b) Roof details including sections through roof ridge, eaves, verges and bargeboards.
- 5) Before relevant works begins, samples or specifications of external materials and surface finishes must be submitted to and approved in writing by the local planning authority. The works must not be executed other than in complete accordance with these approved details.
- 6) The first floor window in the eastern elevation shall be fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows or other openings other than those expressly authorised by this permission shall be constructed in the eastern elevation of the dwelling hereby permitted without the prior written permission of the local planning authority.
- 8) Prior to commencement of development, other than that required to be carried out as part of demolition or approved scheme of remediation, the following shall be submitted to and approved in writing by the local planning authority:
 - a) An investigation and risk assessment, in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment shall be undertaken by a competent person as defined in Annex 2: Glossary of the National Planning Policy Framework.
 - b) If identified to be required, a detailed remediation scheme shall be prepared to bring the site to a condition suitable for the intended use by

removing unacceptable risks to human health, buildings and other property.

The scheme shall include i) All works to be undertaken; ii) Proposed remediation objectives and remediation criteria; iii) Timetable of works; iv) Site management procedures.

The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation works shall be carried out in strict accordance with the approved scheme. The local planning authority shall be given two weeks written notification of commencement of the remediation scheme works.

- 9) Upon completion of the approved remediation works, a verification report demonstrating the effectiveness of the approved remediation works carried out shall be completed in accordance with Condition 8 and shall be submitted to the local planning authority for approval prior to occupation of the development.
- 10) Following commencement of the development hereby approved, if unexpected contamination is found on site at any time, other than that identified in accordance with Condition 8, the local planning authority shall be immediately notified in writing and all works shall be halted on the site. The following shall be submitted and approved in writing by the local planning authority prior to the recommencement of works:
 - a) An investigation and risk assessment, undertaken in the manner set out in Condition 8 of this permission.
 - b) Where required, a remediation scheme in accordance with the requirements as set out in Condition 8.
 - c) Following completion of approved remediation works, a verification report, in accordance with the requirements as set out in Condition 8.
- 11) No development shall commence on site until a scheme for the landscaping and replacement tree planting of the site, including the retention of existing landscape features, has been submitted to and approved in writing by the local planning authority. Landscaping schemes shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities and an implementation programme. All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to occupation or use of the approved development or in accordance with a programme agreed in writing with the local planning authority. All new tree planting shall be positioned in accordance with guidelines and advice contained in the current British Standard 5837 Trees in relation to construction - Recommendations. Any trees, shrubs or plants, planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, and shrubs of the same size and species.