
Appeal Decision

Site visit made on 17 March 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Appeal Ref: APP/N1730/W/20/3264538

Granary Court, Alton Road, South Warnborough, Hook RG29 1RP

(Appeal A)

- 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 Kevin Barham against the decision of Hart District Council.
 - The application Ref 20/01783/OUT, dated 27 July 2020, was refused by notice dated 29 September 2020.
 - The development proposed is the construction of 6 detached dwellings (following the demolition of the existing building) with all matters reserved for subsequent approval (highways, design, scale and landscaping).
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Appeal Ref: APP/N1730/W/20/3264711

Granary Court, Alton Road, South Warnborough, Hook RG29 1RP

(Appeal B)

- 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 Kevin Barham of Turvey Corporation PLC against the decision of Hart District Council.
The application Ref 20/02346/OUT, dated 29 September 2020, was refused by notice dated 23 November 2020.
 - The development proposed is the construction of 6 detached dwellings (following the demolition of the existing building) with access for consideration (appearance, landscaping, layout and scale as reserved matters).
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Decision

1. In relation to Appeal A - The appeal is dismissed.
2. In relation to Appeal B – The appeal is dismissed.

Procedural Matters

3. In my headings above I have based the description of development on the Council's decision notices, as in both cases it is more succinct than the description given on the planning application forms. They are intended as summaries of the nature of development in each instance rather than a complete depiction encompassing all the details. In making my determination I have taken the information and drawings submitted by the appellant into account.
4. As set out above there are two appeals on this site. 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. Both applications are made in outline and differ only in relation to the matters reserved for future consideration. Appeal A has all detailed matters reserved for separate consideration whereas Appeal B includes access for consideration at this stage with appearance, landscaping, layout and scale as reserved matters. As such, the layout plan numbered PP P26(c) Rev D provided with both proposals is submitted on an illustrative basis. Whilst I have taken into account that there may be alternative ways of developing the site, I have considered the illustrative plan on the basis of what the likely impacts of the erection of the number of dwellings proposed would be.

Main Issues

5. The main issues are:

- Whether the proposed dwellings would be in a suitable location having regard to local and national planning policies relating to rural housing;
- The effect of the proposals on the character and appearance of the area, including consideration of the setting of the South Warnborough Conservation Area (CA) and wider landscape;
- Whether satisfactory living conditions for future residents would be created;
- Biodiversity;
- Drainage, and;
- Highway safety having regard to access and parking.

Reasons

Location

6. Policy SS1 of the Hart Local Plan (Strategy and Sites) 2032, April 2020 (LP) sets out the spatial strategy for development in the district. This indicates that new homes will be provided by existing commitments, permitting development within defined settlement policy boundaries, allocations in the plan or through neighbourhood plans. New homes outside of settlement policy boundaries are permitted where development would accord with specific policies in the LP covering rural exception sites and essential housing in the countryside.
7. Policy NBE1 specifies the types of development permitted in the countryside. The explanation for the policy outlines that a more restrictive approach is taken in recognition of the countryside's intrinsic character and beauty. On that basis there should be good reasons to site new development in the countryside. As such only developments expressly listed as exceptions in the policy are supported. The approach broadly aligns with the provisions of the National Planning Policy Framework (the Framework) relating to rural housing.
8. South Warnborough is identified as a main village and has a settlement policy boundary defined on the policies map of the LP. The appeal site lies outside of the settlement policy boundary and is therefore, treated as countryside for the purposes of the development plan. The appellant contends that the proposals would fall within the scope of policy NBE1(j) as they would be located on suitable previously developed land appropriate for the proposed use. There is

no dispute between the parties that the appeal site comprises previously developed land given that there is an existing building on the site capable of a light industrial use. Nevertheless, policy NBE1(j) is not without qualification as it refers to the previously developed land being both suitable and the proposed use being appropriate.

9. There is no explicit definition of these terms in the policy or its supporting text. However, policy NBE1 covers all development in the countryside, not just housing. When it is read together with policy SS1, the spatial strategy envisages new homes in accordance with policy NBE1 where it is essential for them to be located in the countryside. Paragraph 221 of the LP reflects this in stating that development in a countryside location should be demonstrated to be both necessary and justified. It goes on to encourage uses related to the land that would maximise opportunities to strengthen the rural economy thereby giving emphasis to economic rather than residential development. The evidence before me does not indicate that it is essential for the proposed dwellings to be located in the countryside.
10. Furthermore, paragraph 102 of the Framework stipulates that transport issues should be considered from the earliest stages of plan making and development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued. This is reflected in policy INF3 of the LP which requires development to promote the use of sustainable transport modes prioritising walking and cycling and to improve accessibility to services supporting the transition to a low carbon future. By focussing development to those areas with better services and facilities, the spatial strategy in the LP helps to minimise the need to travel and provide greater scope for people to have a choice of modes of transport, including non-car modes.
11. Although South Warnborough has some facilities, including a village shop, public house, church and outdoor recreation facilities, their range is limited. Consequently, future occupants of the proposed dwellings would be required to travel further afield to access education, shopping and employment opportunities likely to be necessary for day to day living. The limited dedicated pedestrian and cycling provision on routes to larger settlements, combined with the distances involved would deter future residents from regularly walking or cycling to access them.
12. There is a bus service through the village with bus stops within reasonable walking distance of the appeal site. However, the limited information provided does not include details of the frequency or timings of the route. Accordingly, it is not shown that the appeal site is well served by public transport such that future occupants would have a genuine choice as to travel mode. Hence, future occupants would be likely to rely on the private car as their principal means of travel. As such, the limited accessibility of the site would conflict with the thrust of the spatial strategy in the LP and make it inappropriate for residential use.
13. In addition, paragraph 229 of the supporting text to policy NBE1 encourages the redevelopment of suitable previously developed land in the countryside provided that the proposal would not cause harm to areas of high environmental value, and that the proposed use and scale of development is appropriate to the site's rural context. The appeal site lies on the periphery of the village in a generally attractive gently undulating rural landscape. It is

- adjacent to the main road and is therefore, prominent on the approach to the village from the north and can be seen in longer views from higher ground to the west.
14. Although alterations were underway when I visited the site, my observations of the existing building were that its form and appearance were reminiscent of modern agricultural buildings typically seen in rural areas. This impression was reinforced by the proximity of agricultural land. Therefore, notwithstanding its size and light industrial use, it has a low key inobtrusive appearance commensurate with its peripheral location.
 15. The illustrative plan provided for both applications shows six detached dwellings with built form more widely dispersed across the site than the existing single building. The subdivision into ordered domestic plots is reminiscent of layouts more typical of residential suburban areas. Moreover, it would be likely to generate associated domestic paraphernalia, ornamental planting, activity and lighting. These factors would emphasise overtly domestic characteristics that would be harmful to the immediate rural context. The visible prominence of the site would exacerbate the degree of harm. Even taking into account that alternative proposals could be accommodated, my concerns regarding the overtly domestic appearance of the development would be likely to remain.
 16. Taking these factors together, despite constituting previously developed land, the appeal site would not be suitable or appropriate for the proposed residential use. On that basis, the proposals would not be supported by policy NBE1(j) and there is nothing before me to show that they would fall within any of the other exceptions permitted by that policy.
 17. My attention is drawn to the existence of prior approval¹ for the change of use of the existing building into six two-bedroom dwellings allowed under permitted development. This is a relevant consideration in my determination as it is a potential fall back position. However, the prior approval does not permit operational development and based on my observations, further planning permission is likely to be necessary for additional physical works before residential occupation of the existing building could realistically take place. Moreover, the evidence provided suggests that despite being marketed, there has been no interest from local house builders for the conversion of the utilitarian structure². This casts considerable doubt on the likelihood of the fall back scheme proceeding as an alternative to the proposals before me.
 18. In any event, as the illustrative plans show a more dispersed, obviously domestic scheme than the conversion of the existing building, it is not clearly shown that either of the proposals would be preferable. Accordingly, the existence of the prior approval does not weigh in favour of permitting the appeal proposals.
 19. Reference is made to a permission to extend the existing building by 50% for commercial purposes but no details of the permission have been provided. Even so, the difference in use would clearly distinguish it from the residential proposals before me. As such, this attracts little weight.

¹ Reference 18/01755/PRIOR

² Email dated 20.7.2020 from Appellant to Council

20. Therefore, I find that the appeal site would not provide a suitable location for the proposals having regard to local and national planning policies relating to rural housing. Hence, they would conflict with the spatial strategy for the district and limited circumstances whereby residential development is supported in the countryside set out in policies SS1 and NBE1 of the LP respectively.

Character and appearance

21. South Warnborough is a village set within an attractive undulating rural landscape. The CA lies to the south of the appeal site. It covers a significant proportion of the village and some of the surrounding countryside. Its significance is derived principally from how the concentration of vernacular buildings and spaces within it have evolved over time. However, its relationship and proximity to the surrounding scenic countryside also comprise part of its significance. Overall, this results in an attractive verdant, rural character to the village and CA.
22. The appeal site has a sensitive peripheral location close to open agricultural land and adjacent to the main road on a principal approach to the settlement. My observations were that the public house further to the south signifies the edge of the built-up area of the village on the eastern side of the main road. At present the generally low key, utilitarian appearance of the building at the site conveys an appearance commensurate with a rural working environment.
23. For the reasons already outlined, the illustrative plans show developments with characteristics that would be overtly domestic in nature. This would dilute the rural characteristics of the site and would contrast starkly with the adjacent agricultural land. The resulting elongation of the settlement on the eastern side of the road would be visually incongruous.
24. Furthermore, the prominence of the site would affect views on the approach to the settlement and CA confusing the presently clear impression of the edge of the settlement and way marker provided by the public house. In addition, the site would be apparent in wider landscape views from the CA from the higher ground to the west. Consequently, the proposals would harm the surroundings within which the significance of the CA is experienced. However, given the relatively modest scale of the development the harm would be less than substantial.
25. Paragraph 196 of the Framework indicates that in such circumstances the harm should be weighed against the public benefits of the proposal. The benefits primarily relate to the provision of 6 additional houses to the overall supply. There would also be economic benefits associated with both the construction of the development, and the future activity and spending of the occupants. Nevertheless, paragraph 193 of the Framework indicates that great weight should be given to protecting the significance of designated heritage assets. Therefore, the modest benefits arising from the provision of the additional houses proposed are insufficient to outweigh the harm to the setting of the CA.
26. Notwithstanding that alternative proposals might be possible and that details could be considered at a reserved matters application stage, I find that there is sufficient information provided to make a fundamental assessment as to the likely impact that a 6 detached house development would have on the character and appearance of the area. The illustrative plans fail to provide

evidence that an acceptable scheme is capable of being advanced at the reserved matters stage without resulting in harm, including harm to the setting of a designated heritage asset. Hence, the use of individual designs using handmade bricks and roof tiles would not outweigh the extent of my concerns.

27. In support of the proposal the appellant indicates that the visual impact from the road would be enhanced by landscaping. Nevertheless, landscaping is a reserved matter in both cases. Moreover, this is not illustrated in the indicative layout which shows rear gardens backing onto the main road. It is likely that future residents in those circumstances would seek a solid boundary treatment close to the road rather than the post and wire fence annotated to block noise from traffic and maximise rear garden space. Therefore, this would not lead me to a different view.
28. Accordingly, I find that the proposals would be harmful to the rural character and appearance of the area, significance of the setting of the CA and wider landscape. Therefore, they would conflict with policies NBE1, NBE2, NBE8 and NBE9 of the LP which in combination, and amongst other matters, require high quality design that positively contributes to its context and conserves or enhances heritage assets and the landscape. In addition, they would be contrary to the general principles contained in saved policy GEN1 of the Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006, April 2009 (LP 1996-2006) which require development to be in-keeping with local character and protective of the natural and historic environment.

Living conditions

29. Policy NBE11 of the LP states that where development is proposed on or near a site that may be impacted by, or may give rise to, pollution, such a proposal must be accompanied by an assessment that investigates the risks associated with the site and the possible impacts on the development, its future users and the natural and built environment. Adequate mitigation must be made to avoid adverse or unacceptable impacts. This broadly aligns with paragraph 127 f) of the Framework which stipulates that decisions should ensure that development has a high standard of amenity for existing and future users.
30. The appeal site lies adjacent to three other existing utilitarian buildings. Although there is reference to Buildings labelled A and B on plan PP P26(c) Rev D having prior approval to change use to residential, there is no guarantee that this will happen. Moreover, the remaining building is labelled 'Grain Dryer now used as workshops'. The information provided does not specify what uses are permitted in these buildings, but I observed that they appeared to accommodate a range of commercial uses. Workshops in industrial usage can generate significant levels of noise. There is nothing to suggest there are any limits controlling the hours of working or noise generated.
31. Paragraph 182 of the Framework requires planning decisions to ensure that new development can be integrated effectively with existing businesses and goes on to state that they should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Planning Practice Guidance further indicates that the 'agent of change' will need to take into account not only the current activities that may cause a nuisance, but also those activities that businesses or other facilities are permitted to

carry out, even if they are not occurring at the time of the application being made³.

32. An assessment that investigates the possible impacts on future residents as required by policy NBE11 has not been provided. Given the relatively proximate relationship, it is likely that future occupants could be unacceptably disturbed by noise emanating from the adjacent uses of land. In the absence of evidence to show otherwise, the degree of harm is not identified and therefore, I am not assured that appropriate mitigation measures are possible that would fully address it.
33. Accordingly, based on the evidence provided, I find that future residents of the proposals would be likely to experience unacceptable disturbance due to nearby commercial noise and activity that would compromise their living conditions contrary to policy NBE11 of the LP.

Biodiversity

34. The site lies within a zone of influence to Shawnsett Copse, a Site of Importance for Nature Conservation (SINC) and therefore, a locally important habitat for biodiversity. According to the Council there is some evidence of the presence of barn owls and bats, both of which are protected species. The appeal site is generally unlit and its proximity to other hedgerows, fields and trees may make it a suitable habitat to support barn owls and bats.
35. Given the likely physical encroachment of the proposed residential development, and its associated lighting and activity, there is a reasonable prospect of harm to a habitat supporting protected species. However, notwithstanding references to environmental reports that may have been prepared for previous applications, there is no substantive up to date evidence before me to confirm the existence or scale of harm.
36. It further follows that there is little certainty as to whether appropriate safeguards are proposed, or are indeed possible, to adequately mitigate for the likely harm. This is not a matter that can be appropriately made the subject of a condition, nor left to the reserved matters stage, as in both instances the principle of the development would have already been permitted. To do otherwise would conflict with advice in Circular 06/2005 Biodiversity and Geological Conservation whereby the presence of protected species and the extent that they may be affected should be established before any planning permission is granted.
37. I therefore find that it has not been demonstrated that the proposed development would have no materially harmful effects on protected species. Consequently, the proposal would be contrary to policy NBE4 of the LP which, amongst other matters, expects all development to avoid negative impacts on existing biodiversity and provide a net gain where possible.

Drainage

38. The Council raises concerns that, in the absence of information to show otherwise, harm will result from the proposal due to surface water and foul water drainage. Policy NBE5 of the LP supports development that over its

³ Paragraph 009 Reference ID 30-009-20190722 Revision date 22.7.19

lifetime, would not increase the risk of flooding elsewhere and will be safe from flooding.

39. There is no dispute that the appeal site is located in Flood Zone 1 and therefore, at the lowest risk of flooding. Notwithstanding references to the road flooding, there is little substantive evidence before me to show that it lies in an area otherwise identified as a flood problem area, for example in the Strategic Flood Risk Assessment. Moreover, the principle of six two bedroom dwellings has been permitted under the prior approval given for the site, and flood risk would have been one of the matters considered as part of that process. Consequently, there is little basis to suppose that as part of a reserved matters application or in response to a planning condition, appropriate technical provision could not be made for surface and foul water drainage at the site for the proposals.
40. Accordingly, based on the information before me, I find that unacceptable harm would be unlikely to arise from the drainage of the site. It follows that I find no conflict with policy NBE5 of the LP.

Highway safety

41. Access is a reserved matter for appeal A. Nevertheless, the access point to the site from the highway is depicted on the red edge for the site and illustrative plan which show access via the adjacent land connecting to the existing access onto the Alton Road that currently serves the site. This is also the access shown for consideration as part of appeal B. Paragraph 109 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
42. With regards to appeal A, the Highway Authority⁴ do not oppose the principle of six dwellings but refer to the need for further details. The specific access geometry, visibility splays, tracking for emergency vehicles, provision of refuse storage, car and cycle parking are all matters that would be considered as part of the reserved matters. No fundamental concerns are raised that would indicate that it would not be possible to provide an acceptable access configuration in the position indicated or a suitable level of parking within the site. Therefore, I find that the concerns raised in relation to appeal A are matters that could be appropriately considered at a later stage and no fundamental harm to highway safety would arise from the proposal.
43. Appeal B proposes the use of the existing access onto the Alton Road which is located within the 30mph speed limit. At present the access serves the existing building which it is stated comprises approximately of 478sqm of light industrial floorspace⁵ and when occupied, would generate commercial traffic. Taking account of my observations of the site, there is little before me to indicate that the existing access is inadequate, has substandard visibility or has compromised highway safety. The number and nature of vehicles associated with 6 dwellings is unlikely to have a greater impact than commercial traffic associated with a light industrial use and I have not seen substantive evidence to show otherwise.

⁴ Consultation response dated 12.8.20

⁵ Planning application form

44. Furthermore, there was no objection on highway safety grounds that prevented the grant of prior approval of the building to 6 two-bedroom dwellings using the access. Although it is likely that the 6 dwellings proposed in the cases before me would be larger dwellings, the consequent increase in domestic traffic movement would not be fundamentally different.
45. Although, in relation to appeal B the Highway Authority express doubts regarding the appellant's suggestion to relocate the 50mph speed limit sign further north, based on the information before me it is not shown that this would be necessary to make the proposed access acceptable.
46. Hence, in regard to this matter neither proposal would conflict with the criteria listed in policy INF3 of the LP or saved policy GEN1 of the LP 1996-2006 which, amongst other matters, require adequate arrangements to be made for access and parking of vehicles.

Other Matters

47. The proposals would boost the overall housing supply. However, the Council's spatial strategy is currently meeting the needs established in the development plan. The modest benefits arising from six additional dwellings and the associated economic activity attract limited weight in favour of the proposals.
48. The existing building is described as having been untenanted for five years. Whilst I accept the proposal would bring the site into use, in the absence of an explanation as to why it has remained empty, I have little reason to doubt that it could be occupied by economic uses. Accordingly, this attracts little weight in favour of the proposals. No evidence is provided to substantiate the appellant's assertion that the proposal would be an enhancement to local amenity and therefore, I have not given this weight in my determination.
49. The appellant indicates that he is not a housebuilder and therefore, was open to guidance from the Council. He further raises concerns regarding the Council's lack of response to pre-application advice requests he has paid for regarding development on or adjacent to the site. Nevertheless, I am required to determine the proposals before me on their own merits, based on the evidence presented. Consequently, the lack of response to earlier pre-application advice requests is a matter that lies outside the scope of my decision. Should the appellant wish to pursue it, he should do so directly with the Council.

Conclusion

50. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise⁶. The benefits of the proposals would not justify my determining them other than in accordance with the adopted development plan. Hence, for the reasons given above I conclude that both appeals should be dismissed.

Helen O'Connor

Inspector

⁶ Section 38(6) of the Planning and Compulsory Purchase Act 2004 & s70(2) of the Town and Country Planning Act 1990