
Appeal Decision

Site visit made on 16 March 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2021

Appeal Ref: APP/R3650/W/20/3263710

Hucclecote, Little Hammer Lane, Bramshott Chase, Hindhead GU26 6BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr John Cook of Interbuild Properties Ltd against Waverley Borough Council.
 - The application Ref WA/2020/0461, is dated 29 February 2020.
 - The development proposed is construction of 2 No. 4 bedroom detached houses with attached garages and construction of new detached garage and retention of existing house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the submission of the appeal against a failure to give notice within the prescribed period, the Council have clarified the position they would have taken had they determined the application. I have had regard to these submissions, in so far as they provide clarity in terms of the reasons why the Council would have refused planning permission had it done so. The main issues below are therefore informed by the Council's submissions.

Main issues

3. The main issues in this appeal are:
 - The effect of the proposed development on the integrity of the Wealden Heaths Special Protection Area (SPA) Phase II;
 - The effect of the proposal upon biodiversity; and
 - The effect of the proposal upon highway safety, in particular in relation to the provision of adequate visibility splays.

Reasons

SPA

4. The SPA is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
5. While the appeal site is not within the SPA, there is disagreement between the parties with regards to the position of the appeal site in relation to the SPA

and, in particular, whether the appeal site falls within the 400m threshold as identified within Policy NE1 of the Waverley Borough Local Plan 2018 (Part 1) (WBLP).

6. From my reading of Policy NE1, it is clear that the required threshold relates to the distance of the site to the boundary of the SPA. Taking this approach, it is clear from the evidence that, whilst the appeal site may be more than 400m from the public car park serving the SPA, the appeal site falls within the 400m of the SPA boundary and, as a result, the proposal is required to comply with Policy NE1.
7. The current appeal concerns the erection of two dwellings, and due to its proximity to the SPA there is a reasonable likelihood that its residents would access the SPA for recreational purposes. Although this is likely to be limited due to the scale of the development, nonetheless, a significant effect on the integrity of the SPA would occur, when considered in combination with other residential uses in the area.
8. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of a European site, such as the SPA. I may consider measures to secure mitigation with a view to ensuring that the proposal would not adversely affect the integrity of the SPA. Due to the small scale of the proposed development there is no scope to provide on-site mitigation. Neither does the proposal include any provision for the delivery of wider, more strategic mitigation.
9. In summary therefore, the evidence indicates that there is a good likelihood of recreational disturbance to the SPA through additional activity associated with the proposed development, which has the potential to affect the integrity of the SPA. The Habitats Regulations require me to consider whether there are any alternative solutions. No proposed mitigation has been put forward by the appellant and no other solutions have been put to me and I have found none myself.
10. I must also consider whether there are any imperative reasons of overriding public interest. The provision of two dwellings, taking into account the merits of the case and the modest scale of the development, is not sufficient to amount to such overriding public interest. Consequently, having regard to the Habitat Regulations, permission must not be granted. Therefore, the proposed development would result in unjustified harm to the integrity of the SPA, contrary to Policy NE1 of the Waverley Borough Local Plan 2018.

Biodiversity

11. Policy NE1 of the WBLP states that the Council will seek to conserve and enhance biodiversity. Development will be permitted provided it retains, protects and enhances biodiversity and ensures any negative impacts are avoided or, if unavoidable, mitigated.
12. No supporting ecology assessment was submitted with either the appeal application or the appeal submission to assess the impacts of the proposal upon the protected species. Whilst the appellant has identified that the site has been used previously as a garden area, given the proximity of the site to the Bramshott Common SSSI and taking a precautionary approach, on the basis of

the lack of evidence, I am therefore unable to conclude that significant harm to biodiversity resulting from the development can be avoided.

13. I note that the appellant has submitted that the matter could be addressed via a condition, although the wording of such a condition has not been provided. In any event, I do not consider that such a condition would overcome the harm I have found.
14. For the above reasons, I therefore conclude that the proposed development would adversely impact upon biodiversity and, in this respect, is contrary to Policy NE1 of the WBLP and Paragraph 175 of the Framework.

Highways

15. Policy ST1 of the Local Plan 2018 (Part 1) states that development schemes should be located where it is accessible by forms of travel other than by private car; should make necessary contributions to the improvement of existing and provision of new transport schemes and include measures to encourage non-car use. Development proposals should be consistent with the Surrey Local Transport Plan and objectives and actions within the Air Quality Action Plan. Provision for car parking should be incorporated into proposals and new and improved means of public access should be encouraged.
16. Whilst no information was submitted with the appeal application in relation to the provision of visibility splays, the appellant, through the appeal has provided additional information, which, in their submissions demonstrates sufficient visibility along both Little Hammer Lane and Upper Hammer Lane. I have no evidence before me to demonstrate that these visibility splays are in anyway inadequate.
17. Accordingly, on the basis of the evidence before me, I see no good reason to justify resisting the appeal development on the basis of its effect on highway safety and find no conflict, in that regard, with Policy ST1 of the WBLP or with the Framework.

Other matters

18. I note the Council raise no issues in relation to the Surrey Hills Area of Outstanding Natural Beauty, design issues, impact on surrounding residents, trees or flooding, amongst other things. However, as these are requirements of policy and legislation, the absence of harm in respect of these matters are neutral factors that weigh neither for nor against the development.
19. The appellant referred me to development located to the south of the appeal site, which at the time of my visit was under construction. I am however not familiar with, nor have I been provided with the full details of this case. I have, in any event, reached my own conclusions on the appeal proposal on the basis of the evidence before me.

Conclusion

20. Although I have found no harm in terms of the impact of the proposal upon highway safety, this would be outweighed by the harm from the other main issues. Therefore, for the above reasons and having considered all matters, I conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR