



Appeal Decision

Site Visit made on 11 May 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2021

Appeal Ref: APP/R3650/W/21/3266380

151 Lower Weybourne Lane, Badshot Lea, Farnham GU9 9LL

- 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 Samuel Fry against the decision of Waverley Borough Council.
 - The application Ref WA/2020/1120, dated 23 June 2020, was refused by notice dated 24 December 2020.
 - The development proposed is erection of a two-storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not include an address. I have therefore used the address given on the appeal form which is set out in the banner heading above.
3. The appellant has submitted a completed signed planning obligation by way of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 14 August 2020. This deals with financial contributions towards mitigation against the impact of development on the Thames Basin Heaths Special Protection Area (SPA). I will discuss this in more detail later in this decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of neighbouring occupiers at 147 Lower Weybourne Lane, with particular regard to light, outlook and whether it would appear overbearing; and
 - the effect of the proposed development on protected species.

Reasons

Character and appearance

5. Numbers 151 and 153 Lower Weybourne Lane (Nos 151 and 153) together form a pair of modestly sized, two-storey, semi-detached houses fronting Lower Weybourne Lane, next to its junction with Lea Close, a small cul-de-sac of similar properties. As such, the appeal property reads as part of the Lea Close development which is arranged as semi-detached and short terraces set behind front gardens. This contributes to the open and spacious character of

- the area. No 151 is separated by a gap and set back from 147 Lower Weybourne Lane (No 147), a traditional two-storey end-of-terrace property.
6. The proposed development would significantly reduce the gap between Nos 147 and 151, reducing this to around 0.6 metres. Despite the set back between these properties, this would result in a terracing effect. This would erode the spaciousness around the appeal property, characteristic of the Lea Close development. This would cause some harm to local character.
 7. Whilst there is no physical separation between Nos 151 and 153, each property has its own defined front garden space. The proposal would use the entire front garden for parking and manoeuvring in connection with the proposed house. This would leave the host property with no front garden and an unconventional arrangement whereby vehicles associated with a separate house have to manoeuvre in front of it. The loss of front parking and a front garden for the host property, would give the proposed development a contrived appearance. This would serve to emphasise the cramped nature of the development and consequently, would adversely affect the character and appearance of the area.
 8. The proposed house would be a similar design to the host property, although narrower. It would have the same ridge height and no set back from the front elevation of the host property and would not appear subordinate. In the context that this would be a separate dwelling rather than a domestic extension, the requirement to appear subordinate is less critical. Furthermore, the modest increase in housing density in this built-up location would not be harmful. This does not, however, overcome the harm that would arise in closing the gap between Nos 147 and 151 and the unconventional parking arrangements to the front of the property.
 9. Planning permission¹ was granted for a part two-storey, part single-storey extension and dropped kerb to the host property. Whilst similar to the appeal proposal, this domestic extension was both smaller in size, set back from the front elevation and further in from the boundary with No 147, thereby retaining some of the existing spaciousness around the property. Additionally, it did not give rise to the unusual and contrived parking layout. For these reasons, the approved extension does not justify the scheme before me now.
 10. I conclude that the proposed development would harm the character and appearance of the area. It would therefore conflict with Policy TD1 of the Waverley Local Plan Part 1: Strategic Policies and Sites 2018 (LPP1), Policy FNP1 of the Farnham Neighbourhood Plan 2017 (FNP) and Saved Policies D1 and D4 of the Waverley Borough Council Local Plan 2002 (LP). These policies together seek development that is a high quality design, integrates well with the site, complements its surroundings and responds to the distinctive character of the local area. Policy FNP16 of the FNP and the Residential Extensions Supplementary Planning Document 2010 (SPD) relate to extensions to buildings and not new dwellings. They are not therefore directly relevant to the proposal before me.

Living conditions

11. No 147 is a two-storey property with a two-storey rear addition. The proposed dwelling would be a substantial two-storey structure located to the south-east

¹ Council Ref WA/2019/2043

- and close to its boundary. It would extend rearwards of both No 147's main rear elevation and that of its two-storey addition. There are ground and first floor windows in the main rear elevation, indicated to serve a dining room and bedroom respectively. There is also a ground floor window in the rear addition serving a small kitchen. This faces towards the appeal site.
12. Due to its proximity to the dining room, bedroom and kitchen windows in this property, it would cause a loss of outlook to all these windows. Furthermore, its bulk and height so close to this property would increase the sense of enclosure for these occupants. This would be both oppressive and overbearing.
 13. The appellant has submitted a Daylight and Sunlight Assessment for Planning (DSAP) which follows the Building Research Establishment guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice' (2011) (BRE Guide). This concluded that there would be no significant adverse impact on neighbouring residents in terms of daylight and that the impact on sunlight to the neighbouring property would be compliant with the BRE guide.
 14. The BRE guide sets out two tests to measure diffuse daylight, the Vertical Sky Component (VSC) and the Daylight Distribution (DD) tests, the latter which can be used where room layouts are known. Where the VSC is already less than 27 per cent a room will receive less than adequate daylight. The BRE guide sets out that if the VSC with the new development in place is both less than 27 per cent and less than 0.8 times its former value, the reduction in skylight will be noticeable. Similarly, if the DD decreases by 20 per cent or more the reduction in daylight will be noticeable and more of the affected room will be poorly lit.
 15. The BRE advises that its guidelines are intended for rooms where daylight is required, including living rooms, dining rooms, kitchens and bedrooms. It does however acknowledge that bedrooms are less important.
 16. The DSAP used both tests and assesses the bedroom and dining room. The kitchen, due to its small size, is not included. The ground floor dining room window has a VSC of just under 28 per cent that would decrease to just over 21 per cent and less than 0.8 times its former value. This is indicative of a noticeable loss of daylight. The DD test, on the other hand, indicates that the dining room would retain nearly 84 per cent of its existing daylight, and as such would not be noticeable.
 17. The difference between the test results is not significant but gives rise to differing conclusions. With a VSC of just over the 27 per cent threshold identified in the BRE guide for an adequately lit room, it seems to me that the dining room is not likely to be a bright space. The proposed development, even though only causing a reduction in daylight of between 16 and 23 per cent, would nevertheless result in that room becoming darker and gloomier and for occupants to be more reliant on electric lighting when using this room. There would be some harm to the living conditions of these neighbours due to this.
 18. The bedroom is served by two windows, the main window being in the rear elevation. The DSAP indicated that, based on the VSC, the amount of daylight to this window is nearly 38 per cent and would reduce to just under 33 per cent and be more than 0.8 times its former value. It is unlikely that changes to the amount of daylight to this room would be noticeable.

19. The BRE guide advises that sunlight to existing buildings can be measured using the Annual Probable Sunlight Hours (APSH). It advises that only windows within 90 degrees of due south should be checked. Where a main room has a main window facing within 90 degrees of due north and a secondary window facing within 90 degrees of due south, then sunlight to that window should be checked. In this case the bedroom window has a secondary window facing south-east. The BRE guide advises that if the window can receive more than 25 per cent of APSH, including at least 5 per cent of APSH in the winter months, then the room will receive enough sunlight.
20. The DSAP confirms that this secondary bedroom window would receive over 26 per cent of APSH and over 9 per cent during the winter months. This indicates that the room will receive enough sunlight.
21. In accordance with the BRE Guide, the DSAP has assessed the effect of the proposed dwelling on the amount of sunlight to No 147's garden. This concluded that at least half of the garden would retain at least two hours of direct sunlight on 21 March and over 80 per cent of its current levels. The garden to No 147 is relatively long. In this context, I am mindful that whilst the proposal would accord with the BRE guide, it seems to me that the part of the garden that would be the most likely to be overshadowed would be the private area at the rear property where occupiers are most likely to sit out.
22. I appreciate that some of this space is currently occupied by a shed which reduces the level of harm. Nevertheless, some areas of garden space directly adjacent to the dwelling are retained. I find that harm through overshadowing would be likely to arise to those areas directly adjacent to the existing property.
23. The approved extension was set further in from the shared boundary and the two-storey element did not project as far rearwards as in the appeal proposal. Due to its smaller size and bulk, the approved extension would have had a considerably lesser impact upon the neighbouring occupiers at No 147. It does not therefore justify the scheme before me.
24. I conclude that the proposed development would harm the living conditions of No 147 through loss of light, outlook and its overbearing nature. It would therefore conflict with Policy TD1 of the LPP1, Policy FNP1 of the FNP and Saved Policies D1 and D4 of the LP. These policies together seek development that is a high quality design that would not result in a loss of general amenity, including material loss of natural light or significantly harm the amenities of neighbouring occupiers.
25. I have found no conflict with Policy FNP16 of the FNP and the SPD for the reasons set out above.

Protected species

26. The Council has raised the absence of an ecological survey as a reason for refusal. This appears to relate to the presence of bats and the proximity of the site to Badshot Lea Pond adjacent to Blackwater River, some 150 metres from the site.
27. The appeal site is part of a domestic garden. The front garden is formed of hard core and the back is partially lawned and partially paved. It has no apparent features that would make it particularly suitable as habitat. However,

the roofspace or eaves of the host property may provide suitable habitat for bats.

28. The appellant has completed a visual inspection of the roof area, eaves and hanging tiles and confirmed that there is no evidence of bats. Whilst the Council has requested a more detailed ecological survey, I have no substantive evidence as to why this would be required for the appeal scheme when it was not for the recently approved extension. Whilst different in scale, they are not significantly different in terms of their effect on the roof of the host property. Furthermore, the scheme does not involve the creation of a new access or the removal of a hedgerow which are also suggested as reasons for the required survey.
29. I am mindful of the joint advice provided by Natural England and the Department for Environment, Food and Rural Affairs² which sets out that a visual inspection can be used. In view of this, the visual survey undertaken, its findings and the similarities between the appeal scheme and the approved extension, I conclude that there would be no harm to protected species as set out in Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017. The proposal would therefore accord with Policy NE1 of the LPP1 which requires new development to contribute to the protection of biodiversity.

Other Matters

30. I have been referred to two planning approvals³ for new dwellings at 5a Lea Close and land at 8 Lea Close. The schemes, which are close to the appeal site, share some of the characteristics of the appeal scheme in that they occupy land to the side of the host property and are not subordinate. However, neither has the same relationship to a neighbouring property as in the appeal scheme nor do they front Lower Weybourne Lane. Whilst these proposals have been found acceptable, this in itself does not make the appeal scheme acceptable. Each scheme needs to be considered on its own individual merits which I have done.
31. The appeal site lies within the 400 metres and 5 kilometres buffer zone of the Thames Basin Heaths SPA. This is a protected habitats site and is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the habitats site. I am the competent authority for the purposes of this appeal.
32. The Council has determined that additional residential development would, in combination with other plans and projects, have a significant effect on these protected sites through increased dog walking and additional recreational pressures. In these circumstances, the Council considers that appropriate mitigation would be required. The appellant has accepted the need to provide a financial contribution towards mitigation of the proposed development on the SPA. The submitted UU secures this.

² Bats, surveys and mitigation for development projects, Natural England and Department for Environment, Food and Rural Affairs

³ Council Ref WA/2007/1728 and WA/2014/0738

33. Notwithstanding the Council's findings in respect of this, as the competent authority, I am required to carry out an appropriate assessment of the effect of the proposed development. However, as I have found that the scheme is unacceptable for other reasons, I do not need to pursue this matter further.

Planning Balance and Conclusion

34. The Council cannot demonstrate a five year supply of deliverable housing land. The extent of that shortfall is not agreed. Under such circumstances paragraph 11(d)(ii) the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
35. The proposal would deliver one additional dwelling within the Farnham Built Up Area Boundary. Policy FNP15 of the FNP supports and encourages proposals for small dwellings on smaller sites within the area. The scheme would therefore meet an identified local need and make a small contribution to the overall supply of housing.
36. I have also found that the scheme would not cause harm to protected species. However, this is a neutral factor in the balance.
37. Good design and its impact on both the character and appearance of an area and living conditions are key aspects of sustainable development as recognised by the Framework. I have found that the appeal proposal would cause considerable harm to the character and appearance of the area and the living conditions of neighbouring occupants. These adverse impacts would significantly and demonstrably outweigh the modest benefits of the scheme.
38. The proposal conflicts with the development plan read as a whole and there are no material considerations to indicate that the application should be determined otherwise than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR