
Appeal Decision

Site visit made on 5 July 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2021

Appeal Ref: APP/D3640/W/20/3264900
104 High Street, Chobham GU24 8LZ

- 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 and Mrs Bruzas against Surrey Heath Borough Council.
 - The application Ref 20/0712/FFU, is dated 5 August 2020.
 - The development proposed is erection of 2 storey dwelling and outbuilding following demolition of existing bungalow and garage.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matter

2. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the revised Framework in reaching my decision.

Application for costs

3. An application for costs was made by Mr and Mrs Bruzas against Surrey Heath Borough Council. That application is the subject of a separate Decision.

Background and Main Issues

4. This appeal has been lodged following the Council's failure to determine the planning application. Notwithstanding this, the Council has referred the proposal to its planning committee and that report sets out reasons for refusal had the Council been in a position to determine the planning application.
5. Having regard to those listed refusal reasons I consider the main issues to be:-
 - a. Whether the proposed development would preserve or enhance the character or appearance of the Chobham Conservation Area (the CA);
 - b. The effect of the proposed development on trees;
 - c. Whether the proposed development would have any adverse effect on flood risk;

- d. Whether the proposed development would have any adverse effect on biodiversity of the river and its environs; and
- e. The effect of the proposed development upon the living conditions of neighbouring occupiers.

Reasons

Character or appearance

- 6. The Chobham Conservation Area Character Appraisal (CCACA) 2001 indicates that the CA is confined to the part of the village, which is visually compact, together with open spaces which are important to the setting of the village and afford important views. There is a concentration of listed buildings on each side of the High Street. A variety of building styles and materials are apparent but there is a strong eighteenth century influence reflected by the mainly brick and stucco fronts. In addition, there are locally listed buildings within the village. The Mill Bourne river adds to the attractive vistas within the CA. The village itself is known to be an historic settlement, as discussed within the appellant's Heritage Statement. The village, therefore, hosts special historic and architectural interest, and this gives the CA significance.
- 7. The proposal would create a two-storey 'modernist' architectural style dwelling (as described within the appellant's Heritage Statement) with cantilever projections at first floor. The ground floor would be finished in Portland stone with the first floor being painted render. Large full height windows with grey uPVC frames would form a significant part of the first-floor elevations.
- 8. The appeal site lies centrally within the CA although there are no listed buildings close by. The architectural style chosen for the dwelling is very different to that of neighbouring properties or those within the CA. The block like form with little articulation, large windows at first floor, flat roof, finishings of stone and painted render would create a development of sharp contrast in appearance that would depart from local vernacular and materials. Furthermore, by design the cantilevered first floor and roof overhangs would have a strong horizontal appearance.
- 9. As a result, the design and form of the dwelling would abruptly contrast with local context and would be substantially out of keeping with the character and appearance of those properties within its immediate environment and those within the wider CA. Given its markedly different design style it would appear as an alien feature within the CA and could not be said to successfully integrate with the existing more traditional and heritage development within its environs. For these reasons, the proposed dwelling would be visually harmful even though it would only relate to a small part of the CA.
- 10. The proposed dwelling would be in line with and be of lower height to that of the adjoining existing property, The Elms. It would also be set back from the road. I accept that it would be less visible than The Elms within the street scene. However, these factors do not overcome my above concerns or justify the proposed development.
- 11. The existing dwelling is at risk from flooding and indeed the existing property is said to be in poor condition due to past flooding episodes. It is advanced that the design of the property has been influenced by the need to reduce risk from flooding, hence a greater proportion of the floorspace has been placed at first

floor level. Whilst it is suggested that if a more traditional design approach were taken to address flood risk this would result in a pastiche and unconvincing design that may be considered unacceptable by the Council. On the available evidence I see no substantive reason why this might be the case or that would lead me to conclude that the design of the dwelling proposed would be the only design option to overcome or reduce the risk that flooding poses. I therefore afford this little weight in favour of the proposal.

12. I acknowledge that the existing dwelling at the site is not of itself a building of historic or aesthetic value, however it is single storey and not overtly conspicuous within the site, the street scene or the CA.
13. The site frontage is landscaped comprising a mix of trees and shrubs. The appellant has indicated the intention for this vegetation to be retained. The Heritage Statement acknowledges that this vegetation could die or be removed, therefore, the impact of the building on the street scene needs to be considered. I have found the proposal would be visually harmful. Any reduction in the existing site frontage vegetation would increase the perceivable visual harm arising from the proposed development in public views from the adjacent highway.
14. Even if the existing vegetation along the frontage were retained, the proposed new dwelling would be taller and larger than the existing dwelling and, as such, would be potentially more visible from the adjacent public highway. The property would also be visible in views from the public highway along the driveway and during autumn and winter when the frontage vegetation loses leaves. Therefore, the visual harm that I have identified would be apparent to some extent in public views, even if the existing frontage landscaping were to remain.
15. Consequently, I find that the proposal would have a harmful effect on the character and appearance of the CA. For the reasons given above, I conclude that the proposed dwelling would neither preserve or enhance the CA.
16. The Framework indicates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to the significance of a designated heritage asset will require clear and convincing justification. The Framework is clear that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
17. Given the size and scale of the proposal within the CA as a whole, I consider there would be less than substantial harm to the character and appearance of the CA. In accordance with paragraph 202 of the Framework, I must weigh the harm against the public benefit of the proposal. The proposal would incorporate potential energy efficiencies of the carbon neutral design that would utilise sustainably sourced materials with reusable embodied energy, passive ventilation, photovoltaic panels, effective control on light and reduced flood risk to the property. Although these are benefits of the scheme, the benefit to the public, in my view, would be minimal, and insufficient to outweigh the harm identified. I conclude therefore that the proposed dwelling would fail to accord with national policy.

18. I conclude that the proposed development would not preserve or enhance the character or appearance of the CA. The proposal would, therefore, conflict with Policies CP2, DM9 and DM17 of the Surrey Heath Core Strategy and Development Management Policies (SHCSDMP) 2012, the CCACA and Principles 6.4 and 7.5 of the Surrey Heath Residential Design Guidance Supplementary Planning Document (SPD) 2017. These policies and guidance seek, amongst other matters, development to respond to the context of its surrounding and respect and enhance the local, natural and historic environment and promote the conservation and enhancement of the heritage asset and its setting.
19. Much has been made by the appellant of the views of the Council's conservation adviser who is supportive of the proposal. However, officers and members of the committee are not bound by advice provided by their technical advisers.

Trees

20. The vegetation at the appeal site contributes positively to the character and appearance of the area and the CA. The trees are therefore an important feature and their protection from harm to ensure their longevity should not be undermined. The loss of any of the trees would have a negative and significant visual effect upon the character and appearance of the area.
21. There is difference in opinion between the appellant's and Council's arboriculturists as to whether the proposal would adversely impact trees. The development and particularly the proposed bike garage would take place within the Root Protect Area (RPA) of trees. The Council's Arboricultural Officer has objected as no overriding justification has been provided for development within the RPA or demonstrated that the trees would remain viable and would not be lost (having regard to British Standard 5837:2012).
22. On the available evidence I cannot be certain that the trees would not be harmed as a result of the proposed development and/or that their long-term protection would be sufficiently secured. The loss of trees could have a significant detrimental impact upon the visual character and appearance of the area and the CA. As a result, this brings the proposal into conflict with Policy DM9 of the SHCSDMP that seeks to protect trees worthy of retention.

Flood risk

23. The site lies within a Zone 3 (high risk) flood zone. The appellant's Flood Risk Assessment (FRA) indicates that there has been historic flooding at the site but concludes that the proposal is unlikely to have a significant impact upon local flood risk. The Environment Agency (the EA) is concerned that the FRA has not given due consideration to flood risk generated by the proposed development as the increased building footprint does not appear to provide adequate flood storage compensation.
24. During a storm event there may not be adequate flood storage compensation, and this would increase the risk of flooding at the site and surrounding sites. The Council indicates that the proposal would increase the building footprint marginally from 151 to 155m². Whilst this may be a relatively small increase in footprint overall, any added flood risk generated by the development would represent an adverse effect arising from the proposed development. As such,

this brings the proposal into conflict with Policy DM10 of the SHCSDMP as flood risk would not be appropriately managed.

Biodiversity

25. The proposed development would encroach to within 8m of the top of the riverbank. The concern is that it has not been illustrated how the development could proceed without damage and/or destabilisation of the riverbank, that subsequently would require repair. This could result in damage to biodiversity. Furthermore, shading from the building could lead to the loss of bank and in-channel vegetation that could also impact the riverbank stability and prevent establishment of vegetation that could in turn impact on aquatic animals. In addition, by encroaching within 8m of the riverbank this would restrict access by the EA for any required maintenance works.
26. Policy CP14 of the SHCSDMP seeks development, amongst other matters, to conserve and enhance biodiversity within Surrey Heath. I conclude that the proposed development could have an adverse effect on biodiversity of the river and its environs, and this brings the proposal into conflict with Policy CP14.

Living conditions

27. The main day-to-day living accommodation would be created at first floor. This would include a large terrace area at the rear of the property. Some overlooking of the bottom of the gardens of 2-16 Chertsey Road could be achieved from the terrace and from within the property given the large windows proposed. However, the Mill Bourne creates separation and I saw that many of those properties host vegetation toward the foot of the gardens. Whilst I accept that some observation of the rearmost parts of gardens could occur, I do not consider this to be so substantial that would cause significant harm to the living conditions of the occupiers of those existing properties, even if some of the rear parts of these gardens are used as sitting out areas.
28. For these reasons, I conclude that the proposed development would not be substantially harmful to the living conditions of neighbouring occupiers. The proposal would not materially conflict with Policy DM9 of the SHCSDMP and Principle 6.4 of the Residential Design Guide SPD that seek, amongst other matters, development to respect the amenities of occupiers of neighbouring property.

Conclusion

29. Whilst I have found in favour of the appellant in terms of the effect on the living conditions of neighbouring occupiers, this does not overcome the identified harm in relation to the other main issues. It is appreciated that pre-application advice was sought in this case. However, having regard to my above findings, the appeal should be dismissed and planning permission refused.

Nicola Davies

INSPECTOR