
Appeal Decision

Site visit made on 25 August 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Appeal Ref: APP/N1730/W/21/3273187

Warbrook Cottage, Warbrook Lane, Eversley, Hook RG27 0QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr R Gurr against the decision of Hart District Council.
 - The application Ref 20/02232/FUL, dated 15 September 2020, was refused by notice dated 10 December 2020.
 - The development proposed is described as a single storey side extension to existing garage and change of use to separate self-contained dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for, a single storey side extension to existing garage and change of use to separate self-contained dwelling, at Warbrook Cottage, Warbrook Lane, Eversley, Hook RG27 0QP in accordance with the terms of the application, Ref 20/02232/FUL, dated 15 September 2020, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

2. The main issues are whether the site is a suitable location for the proposed development with regard to:
 - access by future occupants to day-to-day services;
 - the effect of the development on the character and appearance of the area, including designated heritage assets and trees; and
 - ecology.

Reasons

Background

3. Policy SS1 of the Hart Local Plan (Strategy and Sites) 2032 (the Local Plan) sets out the Council's spatial strategy. This seeks to focus development within defined settlements, on allocated sites, and on previously developed land in sustainable locations. The appeal site is not allocated, or within a defined settlement, but does however fall within the definition of previously developed land. In this regard Policy NBE1 of the Local Plan sets out further criteria for development on land located outside defined settlements, and therefore within the countryside for development plan purposes.

4. Two criteria have been identified as relevant. Criterion (h), which allows for conversion of previously used permanent buildings for 'appropriate uses' consistent with other policies; and criterion (j), which allows development on 'suitable' previously developed land 'appropriate' for the proposed use. Whether the site is appropriate/suitable in either regard, and that the location is thus sustainable, is therefore the key point of dispute.

Access to services

5. The settlement of which the site forms part has a settlement boundary. This is discontinuous, defining 4 separate clusters of development, all of which are directly linked by road. Though Warbrook Cottage lies within one of these clusters, its boundary has been drawn to exclude most of the garden, including both the garage and the vehicular access. This means that current occupants of Warbrook Cottage enter and exit the defined settlement upon entering and exiting their property.
6. The site is located around 1 mile from Eversley Centre, so access to its limited services could be easily obtained by cycling. Other settlements lie at a greater distance. No pavement linkage or continuous street lighting exists, and public transport options are limited. Notwithstanding the option of cycling to Eversley Centre therefore, these circumstances may cause future occupants to favour the use of private motor vehicles.
7. In this case the fact that future occupants of the proposed dwelling would share the same access as occupants of Warbrook Cottage means that they would travel no further to any given location. Moreover, the distance to Eversley Centre would be less than that travelled by occupants of dwelling within the 2 defined clusters located immediately towards the west. In practical terms therefore there would be no significant difference, if indeed any, in terms of the environmental effects of journeys travelled from the site, and those travelled from sites judged to be sustainable on account of their location within the defined settlement. That being so, I find that the environmental effects of travel would be acceptable.
8. For the reasons outlined above I conclude that the site is a suitable location for the proposed development with regard to access to services. To this extent therefore it would comply with Policies SS1 and NBE1 of the Local Plan, as outlined above.

Character and appearance

9. The application subject of the appeal followed an earlier approval for extension of the garage. The proposed scheme would result in creation of the same building form as previously approved, albeit with additional windows serving an upper floor and an enclosed back garden.
10. Land immediately to the south and west of the garden of Warbrook Cottage forms part of the registered park and garden of Warbrook House. Warbrook House is a Grade I listed building, and the park and garden is registered at Grade II*. There is therefore a duty to have special regard to the desirability of preserving the setting of the listed building, whilst I am mindful that the Framework states that great weight should be given to the conservation of designated heritage assets.

11. Insofar as it relates to this appeal, the significance of Warbrook House lies in its early C18th origin, formal architectural design and detailing, and its historic role as a country house. In this regard the park and garden forms its designed historic landscape setting. Elements of the latter date between the C18th and C20th, and include canals, gardens, woodland planting, parkland and a number of vistas. Whilst highly significant in itself, the park and garden therefore makes an important contribution to the significance of Warbrook House.
12. Warbrook Cottage historically formed part of the estate, originating as a small cottage. Extensions have however significantly increased its size, obscuring its identity. Aside from its general location and age, there is currently little to directly link it to Warbrook House. The garage itself is modern. Except therefore in a general historic sense, existing development on the site appears to currently make little, and in the case of the garage, no contribution to the significance of Warbrook House. In this regard modifications to and the change the use of the garage would have no obviously adverse effect.
13. The garden of Warbrook Cottage is currently lawned over. The presence of old fruit trees, some of which were evidently once trained, however suggests that the garden space was managed differently in the past. The south and west edges of the garden are marked by ditches, but presently feature no substantial above ground boundaries. In this regard the garden differs from that towards the east which is more enclosed, and it means that there is a reasonably high degree intervisibility between the site and adjacent open parts of the registered landscape. The latter appear to be peripheral elements within the overall scheme, very little of which can be seen from within the site. Whilst at present the openness of the garden therefore superficially blends with that of the adjacent registered landscape, this does not appear to be a product of past design or therefore to be fundamental to its appreciation. This may help to explain why the garden of Warbrook Cottage is not included within the registered area.
14. Demarcation of the proposed back garden would entail the introduction of boundaries, reducing the level of existing openness. This would have no direct effect on the openness of the registered landscape, but it would mean that the spaces blended less well. In this regard I have been provided with no indication that any control currently exists over the way in which occupants of the existing dwelling manage their garden. Presumably therefore it could be enclosed or landscaped in a different way whether the development took place or not. The evidence on the ground suggests that this was also the case in the past. Garden furniture or other paraphernalia could likewise be placed wherever the occupants wished. In this regard the enclosed area would otherwise affect only small portion of the overall garden space, and would be clearly understood within the established context of the domestic use of the site.
15. Use of typically suburban 'timber panel fencing' to enclose the boundary, as is noted on the application form, would nonetheless have the potential to appear incongruous relative to and from within the registered landscape. However, given that the plans lack any corresponding details, scope exists to secure a more sensitive boundary treatment by condition. This and the above being so, the development would not harm the setting or significance of the registered park and garden.

16. In view of my assessment above I find that the development would have a neutral effect on the settings of both Warbrook House and the park and garden, including the contribution that the latter makes to the significance of the former. The setting of the listed building would therefore be preserved, and the setting of the park and garden would be conserved.
17. With regard to the character and appearance of the area more generally, development along Warbrook Lane and adjoining Lower Common Road is predominantly characterised by a mix of detached and semi-detached 2-storey dwellings and bungalows. These are of varying style, scale and massing, and, except in relation to a distinct group of historic estate dwellings, there is little sense of consistency. The plot on which the proposed dwelling would stand would nonetheless be unusually small, as would the dwelling.
18. As established above, the proposed building form would be the same as that previously approved. As such, the effect that its unusually small size would have on the character and appearance of the area would depend at least partly on the extent to which use of the building as a separate dwelling, rather than as a domestic outbuilding, was both perceived, and perceived as incongruous.
19. The garage can be viewed directly up the driveway, as would the proposed dwelling. Given that the site access would be shared, this would require the frontage to remain generally open. Parking would be accommodated within space already available for parking. In each regard there would be little change. As clear public views towards the rear would not be possible, there would be no indication of how large the back garden or overall plot was. There would also be little or no visibility of garden paraphernalia, which, as noted above, could in any case be located anywhere within the existing garden. The additional windows in the front gable and roof would not in themselves be diagnostic of separate residential use. The only obvious indications of a change in use might therefore be the display of a separate name or number. Given the modest nature of these indicators, it appears unlikely that the change in use would be broadly perceived. Even if it was, in view of my findings above, the change would not harm the broader character and appearance of the area, or have any distinctly urbanising effect within the locality. As such the development would not be harmful.
20. The Council additionally objected to the lack of supporting evidence relating to the effect that providing a waste connection would have upon trees. However, it did not identify the trees of concern, or their particular value. Whilst a pipe would be run between the proposed dwelling and that in the lane, it would not pass close to any trees. Large trees are however present nearby, and so disturbance of wide spreading roots cannot be ruled out. As it is likely that the effect on these roots would be limited given the distances involved, it appears unlikely that any significant harm would be caused to the trees, their capacity for long term retention, or the generally positive contribution they make to the locality. This is therefore a matter that can be reasonably addressed by condition.
21. For the reasons outlined above I conclude that the site would be a suitable location for the proposed development insofar as its effects on the character and appearance of the area, including designated heritage assets and trees, would be acceptable. It would therefore comply with Policy NBE9 of the Local Plan, which seeks to secure high quality design, including that which respects

local landscape character and trees, and protects surrounding heritage assets; Policy NBE8 of the Local Plan, which seeks to conserve or enhance heritage assets and their settings; saved Policy GEN1 of the Hart District Local Plan (Replacement) 1996-2006 (the LPR) which similarly seeks to secure development in keeping with local character, and the conservation of landscape and historic heritage; and saved Policy CON8 of the LPR which seeks to restrict development that would threaten the long term retention of trees. To the above extent therefore it would again also comply with Policies SS1 and NBE1 of the Local Plan, as previously outlined.

Ecology

22. Both the site and the property as a whole are identified as falling within a defined Woodpasture and Parkland BAP Priority Habitat. This is a blanket designation mapped to include areas which are neither woodpasture nor parkland. The rationale is unclear. Indeed, though the designation logically applies to areas which lie within the designated park and garden, the open parts of the site are occupied by a domestic driveway and garden. Moreover, as established above, the construction works would be similar to those already approved, whilst any related landscaping of the garden could occur whether the appeal was allowed or not. For these reasons, and given that no specific evidence of harm likely to arise to habitats or identified species has been set before me, I cannot conclude that any ecological harm would arise.
23. The Conservation of Habitats and Species Regulations 2017 states that before deciding to grant planning permission for a project which is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of that site, a competent authority must make an Appropriate Assessment (AA) of the implications of the plan or project for that site in view of that site's conservation objectives.
24. The potential for the development to have a likely significant effect on the integrity of the Thames Basin Heaths Special Protection Area (SPA), both alone, and in combination with other plans or projects, arises due to the increased population that it would support within the 400m-5km zone of influence of the SPA. In this regard the associated generation of recreational activity within the SPA could be ecologically harmful. An AA is therefore required.
25. The designation of the SPA, which overlaps a number of SSSIs, relates to the mixture of heathland, scrub and woodland habitat that contains, and which supports important breeding populations of nightjar, woodlark and Dartford warbler. These ground nesting birds are particularly vulnerable to predation and disturbance. The conservation objectives of the SPA seek to maintain or restore its integrity, including that of the qualifying features. As increased recreational pressure would be harmful, it would be clearly at odds with these conservation objectives.
26. Natural England (NE) has been consulted and confirmed that it raises no objection to the development subject to mitigation being secured in line with the Council's adopted strategy. This strategy is primarily set out within the Thames Basin Heaths Special Protection Area Delivery Framework, which covers a number of Council areas. Mitigation would take the form of contributions towards procurement of suitable accessible natural greenspaces

(SANGs) owned or controlled by the Council, and contributions towards site access management and monitoring measures (SAMB) which are collected by Hampshire County Council and delivered by NE. Contributions are scaled according to the number of bedrooms, and number of dwellings respectively, thus reflecting the number of potential occupants.

27. The application was refused partly on the basis that no mitigation would be provided. Three Unilateral Undertakings (UUs) were however submitted in the context of the appeal. The contributions within the first of these were incorrect. The second contained the correct figures but various errors. The third, dated 9 September 2021 (UU3), saw the latter satisfactorily addressed. I have therefore based on my decision on UU3.
28. As UU3 would secure contributions towards SANGs and SAMB in line with the Council's adopted SPA mitigation strategy, I find that it meets the tests set out paragraph 57 of the Framework, and Regulation 122 of the Community Infrastructure Levy Regulations 2010. This therefore allows me to reach a conclusion that the development would have no adverse effect on the integrity of the SPA.
29. For the reasons outlined above I conclude that the site would be suitable location for the proposed development insofar as its ecological effects would be acceptable. The development would therefore comply with Policy NBE4 of the Local Plan which seeks to conserve and enhance biodiversity; Policy NBE3 of the Local Plan, which seeks to ensure that development avoids or mitigates any potential adverse effects on the SPA; and saved Policy NRM6 of the South East Plan, which does likewise. To the above extent therefore it would also once again comply with Policies SS1 and NBE1 of the Local Plan, as previously outlined.

Conditions

30. I have imposed standard conditions setting out the time period for commencement of development, and identifying the approved plans for sake of certainty. The Council has additionally suggested a range of conditions which I have considered, as set out below, making any modifications to the wording as necessary.
31. Condition 3 is imposed in relation to trees. The condition is required in order to ensure that any impact on tree roots from trenching and related works is both well managed and minimised, thus safeguarding the positive contribution that they make to the character and appearance of the area.
32. Condition 4 is imposed to secure use of matching materials. This is to ensure harmonisation of the extension, so providing a satisfactory appearance relative to the setting.
33. Condition 5 is imposed in order to secure the provision of appropriately specified and located boundary treatments. This is again required in the interests ensuring that the development has an appropriate visual relationship with its setting, including the adjacent registered park and garden.
34. Condition 6 is imposed in order to secure provision of a cycle/waste store or stores. This is in order to facilitate use of cycles as an alternative to motor vehicles, and the tidy storage of bins, again helping to ensure that the development has a satisfactory appearance relative to its setting.

35. I have not imposed a condition limiting work hours. This is in view of the very small scale of the scheme, the lack of adjoining neighbours, and the absence of any evidence that construction activities would take place outside normal working hours. Scope for disturbance is therefore negligible.
36. I have also not imposed conditions requiring details of vehicular parking, requiring a surface water drainage scheme, or requiring an ecological assessment and management plan. This is given that parking space/access already exists; given the lack of any evidence that the scheme would give rise to an increased risk of flooding; and given the lack of any specific evidence that the site holds ecological value.
37. The Council has lastly requested a broad restriction of most householder permitted development rights. In this regard paragraph 54 of the Framework makes clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Council has not provided me with any such justification. As I can see none, I have not imposed the condition.

Conclusion

38. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless modified in compliance with the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: PL2-01 Rev E; 351/2-3; 351/2-4; PL2-02 Rev B.
- 3) No trenching or other modifications to ground levels within the site shall take place in relation to the development hereby permitted until a scheme for the protection of trees (tree protection plan) and the appropriate working methods (arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved tree protection plan and arboricultural method statement.
- 4) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
- 5) No works shall take place above slab level in relation to the dwelling hereby permitted until a scheme showing the location and full specification of all new boundary treatments has been submitted to and approved in writing by the local planning authority. The approved scheme shall then be fully implemented prior to the first occupation of the dwelling.

- 6) Prior to the first occupation of the dwelling hereby permitted, a structure or structures shall be provided on site for the storage of cycles and bins, whose location and design shall first have been submitted to and approved in writing by the local planning authority. The structure or structures shall thereafter be retained, and at all times kept available for the storage of cycles and/or of bins as applicable.