



Appeal Decision

Site visit made on 28 September 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th October 2021

Appeal Ref: APP/D3640/W/20/3260424

Land adjacent to No 1, Catena Rise, Lightwater GU18 5RD

- 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 S Ali against the decision of Surrey Heath Borough Council.
 - The application Ref 20/0368/FFU, dated 16 April 2020, was refused by notice dated 9 July 2020.
 - The development proposed is Proposed new 2 bedroom dwelling with associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021. I have given the Council and the appellant the opportunity to comment upon the implications of this for their respective cases.

Main Issues

3. The main issues are the effect of the proposed development upon:
 - the Thames Basin Heaths Special Protection Area (the SPA); and,
 - the character and appearance of the area.

Reasons

Thames Basin Heaths SPA

4. The appeal site lies within the 5km zone of influence of the SPA. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require where a project is likely to result in a significant effect on a European site (in this case the SPA), a competent authority is required to make an Appropriate Assessment (AA) of its implications on the integrity of the European site in view of its conservation objectives. Any likely significant effects from a development need to be considered alone and in combination with other development in the area, adopting the precautionary principle.
5. The SPA is a network of heathland sites which are designated for their ability to provide habitat for internationally protected populations of rare Nightjar, Woodlark and Dartford Warbler. The conservation objectives for the SPA are to

maintain and restore extent and distribution of the habitats of the qualifying features, the structure and function and processes of the habitats of the qualifying features, and the population and distribution of the qualifying features within the site. All three species of birds nest on the ground and at low level and are easily disturbed or harmed by human activity. In particular, this includes recreational activity such as walking and dog walking.

6. If constructed the proposal would result in an increase in the number of people living within a short drive or walk of the SPA. The Council's Thames Basin Heaths SPA Avoidance Strategy Supplementary Planning Document (2019) (SPD) identifies a net gain of 1 or more dwellings would give rise to likely significant effects on the SPA through recreational pressure and development will be required to contribute towards avoidance measures. Therefore, when considered alone or cumulatively with other schemes, the development would have likely significant effects on the features of interest of the SPA. This is a matter the appellant does not dispute.
7. Avoidance measures set out in the SPD comprise a contribution towards a Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) which are endorsed by Natural England. The Council collects SANG contributions through its Community Infrastructure Levy (CIL) and SAMM contributions through an appropriate Legal Agreement. The SAMM is a joint project that manages and monitors the cumulative impact of new development and visitors across the SPA including through amongst other things increased wardening, equipment and materials. Contributions from developments are therefore an important component of avoidance measures to offset the harm of each new development upon the SPA.
8. The appellant has indicated they would be willing to enter into a legal agreement to provide a financial contribution towards the SAMM. Section N.2.1 of the Procedural Guide: Planning appeals – England (2021) confirms that if the appellant intends to send a planning obligation and wants to be certain that it will be taken into account they must make sure it is executed and a certified copy is received no later than 7 weeks from the start date. However, as the competent authority, I do not have a planning obligation before me securing a financial contribution to SAMM or other alternative mitigation measures.
9. The appeal scheme proposes no other provision to monitor and manage cumulative recreational disturbance impacts across the SPA and thus maintain its condition and integrity. Applying the precautionary principle, in the absence of appropriate mitigation, the appeal scheme would have significant adverse effects on the integrity of the SPA due to increased recreational disturbance. For this reason, the appeal scheme would fail to adhere to the conservation objectives. As this appeal proposal is for a single dwelling, imperative reasons of overriding public interest do not exist and there are no other considerations that clearly outweigh the harm to the SPA.
10. Therefore, for the reasons set out above the proposed development would conflict with Policy CP14B of the Surrey Heath Core Strategy & Development Management Policies Document (2012) (the DMPD) which states that development will only be permitted where it is satisfied that it will not give rise to likely significant adverse effects upon the integrity of the Thames Basin Heaths SPA, including through the requirement to contribute to SAMM measures.

Character and appearance

11. The appeal site comprises a side garden plot, which due to its open and well vegetated appearance makes a positive contribution to the character and appearance of the area. Dwellings in the vicinity of the appeal site comprise small groupings of a variety of styles, ages, and orientations. There are predominantly semi-detached dwellings, but also a small number of detached dwellings and a short terrace of three nearby. While many are set within deep rear plots, this is not the case for all such as Cape Lodge to the north east and a more recently constructed pair of semis directly opposite on Catena Rise, which have discernibly more modest and angular plots. The new dwelling would be viewed strongly in the context of these nearby properties.
12. The two storey detached hipped roof dwelling would be positioned to maintain the consistent front building line and a similar height to those neighbouring properties to the south west. This, its generous front garden, the spacing from No 1, and the single storey height of the nearby garage buildings, means the new dwelling would retain a sufficient degree spaciousness which would not be harmful to the character and appearance of the area.
13. To its rear the new dwelling would be a short distance from the north west boundary. However, this would not be significantly different from the relationship of the proximity of surrounding garage buildings, Cape Lodge, and the pair of semis opposite from some visible boundaries. Furthermore, much of the close relationship would be screened by existing and proposed fencing and garage buildings. The dwelling footprint might be a limited amount smaller than those nearby. However, having regard to the limited difference and its diverse visual context, the footprint, plot size and shape would not appear unduly cramped or incongruent, and would not be harmful to the character and appearance of the area.
14. For the above reasons I do not find a conflict with the advice in principles 7.4 of the Residential Design Guide Supplementary Planning Document (2017) (RDG) or B1 of the Lightwater Village Design Statement Supplementary Planning Document (2007) in respect of plot layouts, sizes, spacings, building heights and footprints, insofar as these contribute to the character of the area.
15. However, while No 1 Catena Rise integrates a large blank two storey side elevation which does not positively contribute to the character and appearance of the area, such blank first floor elevations are not reflective of the wider area. Therefore, the integration of three blank first floor elevations on the new dwelling would create the appearance of a bulky, somewhat austere, and incongruent building that would be harmful to the character and appearance of the area. Such blank elevations would be visible from surrounding neighbouring properties and gardens.
16. The blank elevations conflict with principles B1 and 7.8 of the respective SPDs insofar as these expect development should use architectural detailing to create positive buildings that contribute to the character and quality of the area. Having regard to the nature of this proposal and the limited evidence before me, planning conditions would not be likely to overcome the harm without a significant amendment which may be outside the scope of this appeal scheme. Furthermore, this would not overcome the harm to the SPA.

17. For the reasons set out above the proposed development would be harmful to the character and appearance of the area. Therefore, it would conflict with Policies CP2 and DM9 of the DMPD. In combination and amongst other things these policies require that design is of a high quality and that development protects and enhances the surrounding character.
18. The Council's first reason for refusal makes reference to principles 7.6 and 7.7 of the RDG. As they seek compliance with national internal space standards and that dwellings are designed to be adaptable, these are of less relevance to this main issue than the principles I have already referred to above.

Planning Balance

19. The Council can only demonstrate a 4.85 year housing land supply. However, the development would result in harm to the integrity of the SPA. Therefore, in accordance with paragraph 11d)i) of the Framework, the application of policies that protect areas or assets of particular importance provide a clear reason for refusing the development for which the policies of the Framework have not been met. Consequently, the tilted balance does not apply.
20. There would be a small temporary economic benefit during construction, and once occupied a small benefit to the local economy. The provision of a single dwelling in a location well placed to access local services and facilities would provide a limited social benefit. The benefits of the development overall attract limited weight in favour of the scheme. Compliance with policies in respect of matters such as scale and layout, materials, energy and resource efficiency, the living conditions of future and neighbouring occupiers, cycle and car parking, and accessibility would all be neutral matters attracting neutral weight. While I note the appellant's comments in respect of pre-application advice, I have considered this appeal scheme on its own merits.
21. The proposed development would be harmful to the character and appearance of the area and would adversely affect the integrity of the SPA. These are matters that attract significant weight against the scheme, which significantly and demonstrably outweigh the benefits of the development.

Conclusion

22. The proposed development conflicts with the development plan taken as a whole. There are no material considerations, including the policies of the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR