



Appeal Decision

Site visit made on 29 November 2021

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2021

Appeal Ref: APP/R3650/W/21/3275901

Land adjacent to Fairhill, Charterhouse Road, Godalming GU7 2DA

- 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 NTPS Consulting Ltd against the decision of Waverley Borough Council.
 - The application Ref WA/2020/1720, dated 15 October 2020, was refused by notice dated 20 January 2021.
 - The development proposed is for the erection of a detached dwelling with associated access and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For the avoidance of doubt, I have used the description of development given on the appellants' appeal form and the Council's decision notice.
3. The Government published a revised *National Planning Policy Framework* (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area,
 - the nearby trees, and;
 - biodiversity with particular reference to Ancient Woodland (AW) and badgers.

Reasons

Character and appearance

5. The appeal site is located within the Godalming Hillsides and Frith Hill Area of Special Environmental Quality. The site is accessed via a tarmacked road that leads steeply up from the main highway of Charterhouse Road and is approximately 1km from the settlement of Godalming.

6. The road leads to the dwelling of 'Fairhill' and a number of other more modest properties which are set back from the road. The dwellings nestle within the hillside and the surrounding trees adjacent to AW which helps to shield the appeal site from the built form on Firth Hill Road. The site is found to the front of 'Fairhill' and is a stepped and raised piece of partially cleared land associated with a former tennis court that is surrounded by vegetation, shrubs and mature trees some of which have Tree Protection Orders (TPO) and includes some badger setts.
7. The proposal is to construct a 'Modernist' type 4/5-bedroom house that includes a flat roof, two staggered wings, a raised terrace area and a linking corridor at first-floor level with under-croft parking below.
8. My attention has been drawn to a number of previous proposals for the site including that permitted under a different development plan which has now expired¹, and a scheme that has been subject to a previous appeal². These are noted. However, as is correct I have considered the proposal before me on its own planning merits.
9. The main parties agree that the principle of development is accepted in this location and that the proposal would meet nationally described space standards. However, notwithstanding the natural type materials and flat roof design, the multi-layered development would include two bulky 'wings' that would be linked by a high-level connecting section. Moreover, the proposal would extend down the hillside, include a number of retaining walls and meet directly with the access road via an extensive external stairway and include an under-croft parking area at ground level.
10. As such, while I acknowledge that the site has been previously used as a tennis court, the tiered and extended footprint of the proposed development would be of some considerable scale and mass in comparison to the more humble properties nearby, such as but not limited to, the dwelling of 'Sandhill'. Indeed, notwithstanding the height of the surrounding trees, the complex form of the proposal would be readily visible from the surrounding area as a consequence of its elevated plot, particularly at times of the year when leaf coverage surrounding the site is more scant.
11. Furthermore, while the appellant says that the proposal would improve upon the appearance of the site and resolve many issues related to recent anti-social type behaviour that has occurred on the site, such as fly-tipping and the setting of fires, I find to the contrary. A Douglas Fir tree as well as numerous shrubs and bushes would be removed in addition to extensive excavation works. In combination these actions would erode the verdant qualities of the site, which I noticed at my site visit provides a pleasant green buffer to the surrounding development. Additional trees and soft-landscaping such as wild flowers and meadow grass would not provide satisfactory mitigation.
12. I conclude therefore, that the scale and mass of the proposal on the elevated and excavated plot would be highly prominent and jar with the verdant qualities of the surrounding woodland and harm the character and appearance of the area.

¹ WA/1981/1496

² WA/2016/0992

13. Therefore, the proposal would be contrary to Policy TD1 of the Waverley Borough Council Local Plan Part 1, Strategic Policies and Sites 2018 (WLP 2018), Policies BE2 and BE5 of the Waverley Borough Local Plan 2002 (WLP 2002), Policies GOD5 and GOD12 of the Godalming and Farncombe Neighbourhood Plan 2019 (GFNP), which say, amongst other things, that the Council will ensure that the character and amenity of the Borough are protected by requiring new development to be of a high quality and inclusive design that responds to the distinctive local character of the area in which it is located.
14. For similar reasons, the proposal does not meet the requirements of Paragraph 130 (c) of the Framework which says that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Trees

15. The appeal site accommodates numerous trees some of which are subject to TPO. I note that the appellant contends that only one 'failed' Douglas Fir tree would be removed as a consequence of the development in order to respond to safety concerns. However, the fact remains that the future occupiers of the proposed development are likely to find the positioning and shadow associated with new and existing protected trees on the site less than ideal in respect of a residential dwelling. Indeed, notwithstanding that the proposed development would have a raised south-facing terrace, and even if additional trees could be planted on the limited remaining plot available as a consequence of the scheme or other mechanisms, it is very likely that the future occupiers would prefer to, at the very least, to prune or lop some of the trees surrounding or next to the dwelling. My concerns for the longevity of the protected trees and their contribution to the verdant beauty of the Godalming wood hillside are increased by the likelihood that the Council may not be able to resist these invasive actions over time, particularly as the proposal is for a family dwelling where leisure type activities might not necessarily be confined to a roof-terrace.
16. Furthermore, as the occupation of the dwelling is likely to change over time, I am not persuaded by the research study highlighted in the appellants submitted arboricultural appeal statement (Jago Keen), dated 5th May 2021, or indeed have any other convincing evidence before me to assure me otherwise, that this would not be the case. I conclude therefore, that the proposal would harm the protected trees and the verdant qualities of the Godalming Hillsides and Frith Hill Area of Special Environmental Quality.
17. Accordingly, the proposal would be contrary to Policy TD1 of the WLP 2018, Policies D1, D4, D6, and D7 of the WLP 2002, Policies GOD5 and GOD15 of the GDNP and the Framework when read as a whole, which require that the Council will have regard to the environmental implications of the development and will promote and encourage enhancement of the environment.

Biodiversity

a) Ancient Woodland

18. Ancient Woodlands are important for wildlife, soils, recreation value and cultural, historical and landscape value as set out in 'standing advice' from Natural England. However, in this case the appellant contends within the submitted arboricultural and ecological statements that the appeal site does not lie within AW. Nevertheless, notwithstanding the mapped changes to the site over hundreds of years, including the use of the site as a tennis court, which are noted, the submitted image 'JK12' clearly shows that the site lies within AW. Moreover, the site is identified in the 'Natural England Ancient Woodland Mapping Inventory', and has also been included in the revised 'Ancient Wood Inventory for Surrey, 2011' (AWIS). The AWIS identifies the site as being within a continually wooded area stretching along the wooded hillside between Charterhouse Road and Frith Hill Road, other than the developed land around 'Fairhill' and a dwelling to the East of the appeal site. Indeed, the site appears to have a variety of mature as well as younger age class deciduous trees such as conifers, sycamore, beech, ash and cherry. I conclude therefore, that the site lies within AW.
19. Furthermore, even if the historic and well-used tennis court area were to be excluded from the AW, the appeal site would nevertheless be within 15m of the AW. As such, irrespective of any flexibility related to the size and type of 15m buffer as suggested by Natural England, it would still be necessary to mitigate against soil compaction and harm by the proposed development to the root protection areas of the trees within the AW.
20. I note the established built form near to the AW and the appeal site. Nonetheless, in this case the proposal is for a new domestic type use that is positioned on an extensive plot within AW. As such, the substantial footprint and the scale and bulk of the proposal would erode and encroach upon the AW. Indeed, the health and stability of the trees would be eroded, not only at the time of excavation and construction, but also over time as a consequence of soil compaction and the long-term denigration of the root protection areas on the appeal site, for which I have limited evidence before me to suggest that there would be adequate mitigation in this respect.

b) Badgers

21. The Protection of Badgers Act 1992 makes it illegal to kill, injure or take a live badger or to interfere with badger setts. Indeed, while Surrey Wildlife Trust has not submitted a recorded objection to the proposal, the main parties agree that there has been recent or historic evidence of badger activity on or near to the appeal site related to Setts 1 and 2, as documented in the submitted Ecological Impact Assessment prepared by ACD Environmental Ltd. I also noted at my site visit that one of the setts appeared to have a fresh stack of leaf-litter near to its entrance.
22. As such, while I acknowledge that the tennis court area is unlikely to be ideal badger foraging territory, and whether there are badgers actively living nearby or in the outlying Setts 3 and 4 or not, taking a cautious approach, and in the interests of a protected species, I cannot be certain from the limited evidence before me that harm to badgers could be mitigated by way of condition or other mechanisms, including the provision of closure under a Natural England licence.

23. Consequently, in the absence of any acceptable mitigation in respect of AW and badgers, the proposal is contrary to Policies NE1 and NE2 of the WLP 2018, Policies D4, D6, D7 and C7 of the WLP 2002, and the Framework which is clear at Paragraph 174 that planning policies and decisions should contribute to and enhance the natural and local environment by protecting biodiversity.

Other Matters

24. I acknowledge that the proposal would contribute to the Council's 5 year housing land supply. However, as the Council can demonstrate a supply in excess of 5 years, I attribute the proposal for one dwelling very minimal weight.
25. The various ecological enhancements associated with the proposal, for example, bat and bird boxes, a woodpile, and soft landscaping are noted. However, this does not outweigh the harm to biodiversity or other harm I have found above.

Conclusions

26. For the reasons given above I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR