
Appeal Decision

Site visit made on 12 October 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31ST January 2022

Appeal Ref: APP/R3650/W/21/3271628

3 Great Austins, Farnham GU9 8JG

- 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 & Ms V & J Jaye against the decision of Waverley Borough Council.
 - The application Ref WA/2020/0215, dated 23 December 2019, was refused by notice dated 18 November 2020.
 - The development proposed is the erection of a new dwelling and associated parking areas following partial demolition of an existing dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. New evidence was submitted by the appellant under the appeal in relation to visibility splays. The Council and other interested parties will have had an opportunity to comment on the new evidence under normal appeal procedures and it has been accepted and considered on this basis.
3. The appellant submitted a Section 106 unilateral undertaking at the beginning of the appeal. This was followed by another Section 106 unilateral undertaking after final comments stage containing minor amendments. A completed and correctly executed planning obligation will have legal effect and should be considered accordingly. Both have been accepted and considered on this basis, and main parties given further opportunities to comment where necessary.
4. The site is located within the Thames Basin Heaths Special Protection Area's (SPA) zone of influence. Consequently, the proposal has been considered in the context of statutory duties set out within the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) and dealt with as a main issue under the appeal.
5. Natural England were consulted in this context as a statutory nature conservation body. Representations received have been duly considered in conjunction with any comments from the main parties.

Main Issues

6. The main issues are the effect of the proposal on the:
- (a) Thames Basin Heaths SPA.
 - (b) safety of the highway network; and
 - (c) character and appearance of the area, including Great Austins Conservation Area.

Reasons

Thames Basin Heath SPA

7. The site is located within the Thames Basin Heaths SPA's zone of influence. Even though the proposal is limited in scale, the in-combination effects with other residential development in the area would give rise to an increase in recreational pressure and likely significant effects on the SPA.
8. Parties acknowledge the Waverley Borough Council Thames Basin Heaths Special Protection Area Avoidance Strategy 2016, and that recreational pressure and likely significant effects on the SPA can be mitigated by financial contributions towards ongoing strategic access management and monitoring (SAMM), and suitable alternative natural green space (SANG).
9. In this context, the proposal is supported by unilateral undertakings which seek to provide a financial contribution of £3,939 (£3,032 towards a SANG and £907 towards SAMM). This is said to be in accordance with the formula of the guidance to proportionately offset recreational pressures.
10. Natural England made representations pursuant to their duty as the statutory nature conservation body under the Habitats Regulations and did not object to the proposal or mitigation. However, they did not make an explicit finding on the evidence presented, and merely set out what would be expected in theory.
11. In this context, planning obligations within the unilateral undertakings would be necessary in accordance with Paragraph 57 of the Framework and pursuant to the Community Infrastructure Levy Regulations 2010, which state that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, among other things.
12. The first unilateral undertaking submitted at the start of the appeal was flawed due to inaccuracies in the document's definitions, including those relating to the planning application reference number. Consequently, it is flawed and carries no weight under the appeal.
13. The second unilateral undertaking submitted after final comments stage remedied some of these inaccuracies. However, it still fails to accurately identify the land to which it relates and does not include a plan edged red, which reading the definitions and interpretations should be annexed with the unilateral undertaking but is not.
14. Furthermore, wet signatures are omitted, and it is still not clear that a digital signature can be taken as a proper execution of the document. Lastly, although the Thames Basin Heaths Special Protection Area Avoidance Strategy 2016 is mentioned by parties, a copy has not been submitted under the appeal for me to verify its requirements.

15. Altogether, the second unilateral undertaking submitted after final comments stage is also flawed and carries no weight under the appeal. Even if it was not flawed, the Thames Basin Heaths Special Protection Area Avoidance Strategy 2016 was not submitted, and I would not be able to verify that the unilateral undertaking would be effective in any event.
16. Overall, the proposal would conflict with the Habitats Regulations and Policies NE1 and NE3 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 (LP), which among other things manage adverse effects on the integrity of European sites.

Highway Safety

17. The site is located at 3 Great Austins, where an existing access serves a single dwelling off a 30mph highway. Visibility splays are below the minimum standard recommended by Manual for Streets, however there is no evidence that this has been to the detriment of highway safety.
18. The proposal would subdivide the site and deliver an additional four bedroom dwelling. Both dwellings would share an improved access with visibility splays in accordance with the minimum standard recommended by Manual for Streets, comprising an x distance of 2m and a y distance of 43m.
19. However, the minimum standard is only appropriate for very lightly trafficked highways and there is no evidence that the highway is lightly trafficked or that it is reasonable to apply the minimum standard in this case. Consequently, the normal standard comprising an x distance of 2.4m and a y distance of 43m should apply.
20. It would appear that the boundary wall fronting the highway is preventing the normal standard being achieved. Based on the evidence in front of me, the potential works required to reprofile the boundary wall would appear minor.
21. In this context, I am mindful of guidance¹, which sets out that when used properly, planning conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission. In this case, given the limited nature of works required to achieve compliance, it would be reasonable to secure such works by planning condition.
22. Overall, the imposition of a planning condition would secure the necessary visibility splays at the site, and this would mitigate the limited intensification of the site and preserve highway safety. The proposal would therefore accord with Policy ST1 of the LP, which among other things seeks to achieve safe and suitable access to developments.

Character and Appearance

23. The site is located within the Great Austins Conservation Area, which is described as deriving some of its heritage significance from a low density pattern of residential development established in the early twentieth century and follows the garden suburbs design philosophy of the time. Among other things, the dwellings within the conservation area are large and set within well-proportioned sylvan gardens.

¹ Planning Practice Guidance - Paragraph: 001 Reference ID: 21a-001-20140306

24. Furthermore, there are a significant number of large mature trees that give the conservation area a distinctive verdant feel. During my site visit, this character and appearance was readily identifiable, including along the majority of Great Austins and within the immediate vicinity of the site.
25. The site itself comprises a single dwelling at 3 Great Austins and is said to have originated as an outbuilding associated with a dwelling that has since been demolished, creating a smaller dwelling and narrow plot arrangement that is not reflective of the prevailing larger dwelling and broader plot arrangement of the conservation area as a whole.
26. It would appear that the demolition of the larger dwelling at the site may have given way to a redevelopment comprising a number of large apartment style residential developments directly to the east and known as The Lindens. These clearly depart from the prevailing pattern of development.
27. Consequently, the site's existing pattern of development, in conjunction with its close association with The Lindens residential developments directly adjacent, does not contribute positively to the character and appearance of the conservation area.
28. There is a large mature oak tree in the rear garden area of 3 Great Austins, and whilst the site's pattern of development may not positively contribute to the character and appearance of the conservation area, this tree does make an appreciable contribution to it. This is because the tree's scale is such that it is clearly visible from Great Austins and forms a backdrop to the existing dwelling at the site. It therefore helps the site conform to the wider verdant feel of the conservation area.
29. The proposal would subdivide the plot and deliver an additional dwelling that is similar in scale to the existing dwelling. Given that the existing pattern of development at the site does not make a positive contribution to the character or appearance of the conservation area, its subdivision would not be harmful. The garage structure of the existing dwelling would be demolished as part of the proposal and the net increase in the building footprint would be limited and this helps ensure subdivision does not result in a cramped pattern of development in and of itself.
30. Although the professional opinion of the landscape and tree officer is greatly respected, the evidence presented in the appellant's arboricultural impact assessment provides a clear technical basis to conclude that the proposal would not infringe on the tree's root protection area as defined by the relevant standards. Without a similar level of technical evidence demonstrating that the contrary is true, or that the root protection area should be defined differently, I cannot reasonably conclude that there would be development pressure or subsequent harmful effects on the tree.
31. Overall, in attaching considerable importance and weight to the matter I can conclude that the proposal would preserve the character and appearance of the area, including that of Great Austins Conservation Area. Consequently, there is no finding of less than substantial harm and a balancing exercise against the public benefits is not necessary.

32. Altogether the proposal would not conflict with Section 72 of Planning (Listed Buildings and Conservation Areas) Act 1990, Policies HA1 and NE2 of the LP, Policy FNP5 of the Farnham Neighbourhood Plan 2020 and retained Policies HE8, D6 and D7 of the Waverley Borough Council Local Plan 2002. Among other things, these set out that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

Other Matters

33. The relevant appeal² referenced by the appellant and disputed by the Council is noted. However, the full details are not in front of me to be definitive about its relevance. In any event, I note that the site fell outside of the conservation area and is not directly comparable to the proposal in this case. Altogether, I have given it limited weight under this appeal.

Conclusion

34. For the reasons given above, although the proposal would be acceptable in relation to highway safety and character and appearance, it would still conflict with the development plan in relation to the Thames Basin Heath SPA. Consequently, the appeal is dismissed.

Liam Page

INSPECTOR

² APP/R3650/W/17/3182779