



Appeal Decision

Site visit made on 29 March 2022

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 1 April 2022

Appeal Ref: APP/R3650/W/21/3280038

Pendragon Hall, 13 Gardeners Hill Road, Wrecclesham, Farnham, GU10 4RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Shawn Reed against the decision of Waverley Borough Council.
 - The application Ref WA/2020/1410, dated 25 August 2020, was refused by notice dated 5 February 2021.
 - The development proposed is erection of 5 detached houses including new access onto Gardeners Hill Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence uses both the term "Gardeners Hill" and "Gardener's Hill". I have used the former for the purposes of this appeal as that is how the site location is described on the application form and the decision notice.
3. By the time of my site visit it was apparent that some, if not all, of the three houses to the south of the site, the Runnymede development¹, are occupied. I was able to see the relationship between them and the appeal proposal.
4. The application is made in outline with access and layout to be determined. The Design and Access Statement indicates the buildings would be a mix of single storey and two storey, but matters of scale, appearance and landscaping are reserved for future consideration.
5. A revised National Planning Policy Framework (the Framework) was published in July 2021 so the references to the 2019 Framework on the decision notice have been superseded. The revised Framework has been addressed in the appeal evidence. The Housing Delivery Test 2021 published 14 January 2022 indicates a housing delivery rate for the Borough of 109%.
6. The development plan includes the Waverley Borough Local Plan Part 1 2018 (the LP); the Farnham Neighbourhood Plan 2013-2032 (the NP) made 3 April 2020; and Retained² Policies of the Local Plan 2002 (the 2002 LP). The Draft Local Plan Part 2 is at a relatively early stage in the adoption process and its policies carry no weight in this appeal.

¹ Allowed at appeal Ref APP/R3650/W/16/3150802 (the Runnymede development) now Wisley Place

² I have described these Policies as 'Retained' rather than 'Saved' as this is how the Parties have referred to them

Main Issues

7. The second reason for refusal relates to the absence of ecological information and the potential for harm to protected species. An Ecological Impact Assessment July 2021 was submitted with the appeal. The Council has confirmed that, with appropriate biodiversity and enhancement conditions as recommended, this addresses the second reason for refusal and would comply with Policy NE1 of the LP. I observed that although there is substantial woodland to one side and trees alongside Gardeners Hill Road, the remainder of the site is maintained grassland with no hedges. Based on the evidence I see no overriding reason to come to a different view to the Council.
8. Accordingly I consider the main issues for this appeal are:
 - whether the proposal would accord with the spatial strategy including the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect on trees; and
 - the effect on living conditions of occupiers of adjacent properties.

Reasons

Spatial strategy including character and appearance

9. I understand the appeal site was in the defined urban area for previous planning policy purposes and at that time the Runnymede development was granted on appeal. However, the adoption of the NP materially changed the thrust of the development plan policy. The whole of Pendragon Hall and land to the south is outside the Built-Up Area Boundary of Farnham as designated in the NP. Notwithstanding the appellant's view that this is inexplicable, it was open to those preparing the NP to take account of the changed circumstances, including permissions granted at Pendragon Hall and Baker Oats Drive, and to conclude that the land in and around Pendragon Hall now merits protection under countryside policies. The NP was tested at examination and found to be sound and is part of up to date policy.
10. Policy SP2 of the LP sets out the spatial strategy for the Borough and seeks to focus development at the four main settlements. The appeal site is located outside any settlement and is within the Countryside Beyond the Green Belt. The supporting text to Policy SP2 of the LP states that in order to meet the housing requirement it will be necessary to allow some development of suitable sites on the edges of settlements. Taking this into account I find little conflict with Policy SP2.
11. The NP explains that the Built-Up Area Boundary for Farnham aims to enable development opportunities within the town whilst protecting its rural setting. Policy FNP10 of the NP seeks to safeguard the surrounding countryside and states that outside the revised Built-Up Area Boundary priority will be given to protecting the countryside from inappropriate development and only limited development outside the revised boundary will be permitted. Policy FNP14 allocates sites for housing; the appeal site is not so allocated.
12. Although there is no precise definition of inappropriate development Policy FNP10 states that outside the revised Built-Up Area Boundary proposals will

only be permitted where they comply with the specified criteria. Therefore proposals which meet these criteria equate to development which is considered to be appropriate. It logically follows that other development is likely to be inappropriate.

13. Criterion a) provides for developments in accordance with Policies FNP16, FNP17 and FNP20. However, these relate to extensions, and land for business and tourist uses. Criteria b) to d) refer to various protected areas and do not apply. Criterion e) requires proposals to enhance the landscape value of the countryside and, where new planting is involved, use appropriate native species. Whilst it would be possible to use native species, the residential development proposed would not enhance the landscape value of the countryside.
14. I conclude that the appeal proposal is not one of the identified developments considered to be appropriate. Accordingly it gains no support from the above Policies and so would conflict with Policy FNP10. Moreover, because of the number of dwellings proposed and the extent of the site, it would amount to more than the limited infill, which as the appellant indicates, is sometimes elsewhere considered to be acceptable in countryside areas. In any case the relevant policy for Waverley does not make an exception for infill development.
15. Policy FNP11 seeks to prevent the coalescence of settlements. The proposed housing would occupy a significant part of the space between buildings although the effect would be ameliorated to some extent by the relatively low density proposed. However, the site is not within one of the defined gaps to which the Policy particularly applies.
16. The appeal site comprises part of the large residential garden curtilage of Pendragon Hall, which has planning permission for extensions and conversion to six dwellings. Levels are undulating and broadly slope down from Gardeners Hill Road and from north-west to south-east. It is free of development but sits between Pendragon Hall above, and the Runnymede development below.
17. There is a tree belt which separates the site from Gardeners Hill Road and on the other side of the site is a well-established woodland. Although the appeal site has no formal designation in relation to landscape quality it is notable in landscape terms as very open grassland sweeping down from Gardeners Lane and Pendragon Hall towards the woodland and the new houses. Although maintained as grassland it is an open semi-rural and attractive environment.
18. Even taking account of the Baker Oats Drive development on the other side of Gardeners Hill Road, also behind a treeline, the area presents an intrinsic and beautiful distinctive semi-rural character which should be protected in accordance with Policy RE1 of the LP and Policy FNP10 of the NP. The proposed development would harmfully disrupt this character. Policy RE3 of the LP requires that new development must respect and where appropriate, enhance the distinctive character of the landscape in which it is located which applies generally, although the more specific safeguards apply to designated landscapes do not apply in this case. The existing treeline limits the visibility of the site albeit glimpsed views can be obtained at times when the trees are not in leaf. In addition the siting of some of the properties at lower levels would help reduce the urbanising effect to some extent.

19. The dwelling proposed at Plot One and its double carport would be positioned close to the access road which would swing to the left a short distance in from Gardeners Hill Road. The dwelling in particular would have a relatively long elevation facing towards the access. The layout plan indicates a finished floor level of 35.0 and, given the relative levels proposed, this dwelling would be prominent in views in from Gardeners Road. Its prominence would exacerbate the harm to the semi-rural character and appearance of the area and there would be little scope for substantial planting to ameliorate this effect.
20. I see no reason to suppose that a good standard of design of the individual properties could not be achieved and there would be more scope for landscape planting further in the site. However, the proposal would change the rural character of the appeal site and replace it with a more urbanised appearance. Although views would be filtered I consider the harm to the character and appearance of the wider area would be significant. Nevertheless the proposal would fail to protect the countryside from inappropriate development. I acknowledge that the Runnymede development in particular has eroded the semi-rural character to some extent but this does not lead me to conclude further erosion would be unharmed or acceptable.
21. Overall I conclude that the proposed development would not accord with the spatial strategy as it would not amount to development considered to be appropriate in the countryside; would not enhance the landscape value of the countryside; and would cause significant harm to the character and appearance of the area. I find conflict with Policy FNP10 of the NP, Policies RE1 and RE3 of the 2002 LP; and those principles of the Framework that seek to protect the rural character of the countryside.

Trees

22. Some trees would be removed from the tree belt alongside Gardeners Hill Road to enable the construction of the proposed access. Some of these were found to be in poor condition and were identified in the Arboricultural Method Statement as requiring removal for sound arboricultural management reasons whether or not the proposed development was to take place. The effect would be gap of about 10m in the tree belt. I see no reason to suppose that a suitably designed layout could not provide alternative planting within the site and near to the access to minimise the resultant break.
23. However, in the layout proposed, the closeness of the proposed dwelling and garage at Plot One to the access road, and the requirements for visibility splays would appear to preclude much by way of significant planting in this location. Moreover, it is unclear from the submitted evidence that root protection areas would be unaffected by the works needed to provide and maintain the 2.4 x 56 metres and 2.4 x 64 metres visibility splays along Gardeners Hill Road.
24. A new porous footpath link would be provided as part of the proposal. This would link to the footway intended to be implemented as part of the consented development of Pendragon Hall planning Ref WA/2019/0953. The new path has been generally located to avoid impacting the existing trees but could utilise a 'no dig' construction, where required. Steps are also proposed to provide a direct link to the new footpath from the for the residents of the Runnymede development.

25. Subject to appropriate conditions I consider that the trees could be protected in relation to the proposed footpath. However, in the absence of further information I cannot confidently conclude that root protection areas would be unaffected by the proposed visibility splays. Accordingly I find some conflict with Policy NE2 of the LP and Retained Policy D7 of the 2002 LP which seek to maintain and enhance existing trees and hedgerows. There would also be conflict with Retained Policy D6 as the use of planning conditions, indicated as one of the mechanisms the Council could use to protect significant trees, would not be precise or enforceable where there is any uncertainty as to the effect on those trees.

Living conditions

26. The three houses that comprise the Runnymede development are set in relatively spacious gardens. The proposed dwellings at Plots One, Two and Three would all have substantial elevations facing towards them. In particular parts of the dwellings at Plots One and Three would be close to the adjoining garden boundary.
27. The Residential Extensions Supplementary Planning Document 2010 (the SPD) seeks to secure 18 metres between proposed windows and neighbouring private amenity space and parts of the elevations would not meet this. However, this applies to extensions rather than new dwellings. I am also advised that this standard has not been secured for other development such as the nearby Baker Oats Drive. Accordingly I give the 18m guideline little weight in this appeal. Moreover, although the position of the dwellings is for consideration now, there would be control over windows and type of glazing at reserved matters stage if the proposal were to be otherwise acceptable.
28. However, it appears from the layout plan, for which permission is sought, the finished floor level³ for the house proposed at Plot One would be 35.0. This could be between some 1m and 5m higher than the levels along parts of the boundary with the neighbouring property as shown on the Topographical Survey. It also seems likely that the patio for Plot One would be at a similar level. This could lead to direct overlooking of parts of the patio and some windows of the neighbouring property unless higher fencing than would normally be expected was erected along the shared boundary. This could result in a gloomy and oppressive outlook for occupiers of that property.
29. The Design and Access Statement indicates that the ridge height of the two storey part of the dwelling at Plot 1 would be some 43.2m. Whilst this is for consideration at reserved matter stage, it seems probable that, to achieve the four+ bedrooms sought on the application form in the layout proposed, would require at least in part a two storey building likely to have such a height or similar. This adds to my concerns about the potential impact on the living conditions of the occupiers of the neighbouring property. The appellant indicates that no objection was submitted by the developers of the Runnymede houses. However, there are many reasons why objections may not be made to planning proposals and this leads me to no different conclusion in this case.
30. In the absence of further information, such as existing and proposed sections through the relevant properties, I cannot confidently conclude that there would be no material harm to the living conditions of the occupiers of the dwelling to

³ The Design and Access Statement explains this at paragraph 3.5

the south. I therefore find conflict with Policy TD1 of the LP; Retained Policies D1(c) and D4(c) of the 2002 LP and those principles of the Framework which seek to protect the well-being and amenities of occupiers of neighbouring properties.

31. As set out above the SPD appears to relate only to residential extensions as does Policy FNP16 of the NP and therefore neither are relevant in this appeal. Similarly Policy FNP1 of the NP relates to design but does not appear to be directly relevant to the effect on living conditions of neighbours in this context.

Other Matters

32. The site is within the Wealden Heaths I Special Protection Area (SPA) 5km Buffer Zone and the Thames Basin Heaths SPA 7km Buffer Zone. The proposal would result in an increase in permanent increase in people on the site. The Council considers that due to the availability of alternative recreational opportunities within the area, which could divert residents from use of the SPA, the proposal would not have a likely significant effect upon the integrity of the SPAs and so concludes that an appropriate assessment is not required. Had my conclusions on the main issues been otherwise I would have sought additional information to satisfy myself that this is indeed the case. In the circumstances it is not necessary or appropriate for me to do so.
33. The appellant considers that the permitting of the extension and conversion of Pendragon Hall established a principle for the appeal proposal. However, it seems to me that those proposals would have benefitted from the exception at Policy FNP10 so long as they complied with Policy FNP16 of the NP which provides for extensions both within and outside the Built-Up Area Boundary. Accordingly that permission would not establish a principle for the construction of entirely new dwellings where there are no buildings.
34. The Framework indicates excludes gardens in built up areas from the definition of previously developed land and it has been held this does not apply outside built up areas. However, the Framework also clearly states that "... it should not be assumed that the whole of the curtilage should be developed". In this instance, even if the appeal site amounted to garden that qualified as previously developed land, there is no built form within it and I give the matter little weight in the context of this appeal.

Planning Balance and Conclusion

35. I have found that although views of the proposed development would be filtered, there would be significant harm to the character and appearance of and the proposal would fail to protect the countryside from inappropriate development as required by Policy RE1 of the LP and Policy FNP10 of the NP. The proposal would fail to recognise the intrinsic character and beauty of the countryside and would not accord with the strategy within the FNP which seeks to direct development to locations within the Built-Up Area Boundary and safeguard the countryside from inappropriate development. Policy FNP10 is consistent with paragraph 174 b) of the Framework.
36. I have also found harm in relation to living conditions and trees, to which, given the express seeking of permission for a specific layout, I attach significant weight.

37. For the reasons set out above I find little conflict with Policy SP2 of the LP. However, in respect of Farnham, the supporting text to Policy ALH1 of the LP explains that the housing required in addition to that within the FNP 2017 will be allocated in Local Plan Part 2, unless there is an early review of the FNP. An early review was undertaken and sufficient sites identified to meet the LP housing requirement for Farnham. With ten years remaining to the end of the FNP period and the rate of delivery of housing improving each year I see no reason to suppose that the FNP would not deliver the dwellings required. In these circumstances, I attach considerable weight to the harm arising from the location of inappropriate development within the countryside and the conflict with the strategy set out in the FNP, including policy FNP10.
38. The proposal would deliver five houses which assist in boosting the supply of homes. I give this considerable weight. There would also be short term economic benefits during the construction period, and more long-term benefits to the local economy due to the increased spending in the area. These benefits are moderated by the small scale and attract less than moderate weight. It would make efficient use of previously developed land but as the proposal would amount to wholly new buildings I give these matters less than moderate weight.
39. I have no doubt that the proposed dwellings could be designed to a high quality and meet the requisite residential space and amenity standards for future occupiers. However, these are matters to be expected from any development and do not carry positive weight in this planning balance.
40. If the deliverable housing land supply is below 5 years paragraph 11 d) of the Framework is engaged. This provides that where the most important policies for determining the application are out of date planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
41. In February 2020 the Council published a Housing Delivery Action Plan to address a Housing Delivery Test Result of 85%. Subsequently the Five Year Housing Land Supply Position Statement November 2021 indicated a 5.2 year supply of deliverable housing land on the base date of 1 April 2021.
42. Little by way of evidence has been submitted for the purposes of this appeal as the appellant considers the case for allowing the proposal is not contingent on the absence of an appropriate supply of housing land. However, the appellant considers the Council's claim is untested; relies heavily on windfall sites; there is a poor record of housing delivery; and the impacts of the Covid 19 Pandemic and supply chain and staffing issues could all adversely affect housing delivery. Moreover a Colleague Inspector found about a 4.26 year housing land supply in June 2021 Appeal Ref APP/R3650/W/20/3262641. Set against this the rate of housing delivery has been steadily increasing and it seems likely that the supply falls between 5.2 and 4.26 years. In the absence of clearer evidence to the contrary I cannot conclude that there is a five year supply of deliverable housing land.
43. Weighing all the above I conclude that the adverse impacts I have identified would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

44. Moreover, at the time of writing, Paragraph 14 of the Framework is also engaged, since it is less than two years since the FNP was made; the FNP contains policies and allocations to meet its identified housing requirement; there is in excess of a three year supply of deliverable housing sites; and housing delivery within Waverley is at least 45% of that required over the previous three years. In these circumstances the Framework states that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.
45. Paragraph 15 sets out that planning should be genuinely plan-led, and amongst other matters should provide a platform for local people to shape their surroundings. The FNP has sought to do this. Granting planning permission for a development that would so clearly conflict with the strategy within a relatively recently made neighbourhood plan found to be in conformity with the LP would undermine the neighbourhood planning process and the plan-led system as a whole, contrary to the policies within the Framework.
46. I find that the adverse impact of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework as a whole. I find insufficient material considerations which indicate that the proposal should be determined other than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

S Harley

INSPECTOR