

Appeal Decision

Site visit made on 17 January 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2022

Appeal Ref: APP/R3650/W/21/3270595

Chapel Fields, Loxwood Road, Alfold, Cranleigh GU6 8HW

- 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 Richard Cooke against the decision of Waverley Borough Council.
 - The application Ref WA/2020/1418, dated 6 August 2020, was refused by notice dated 24 December 2020.
 - The development proposed is erection of 7 dwellings and parking areas.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published after the determination of the planning application. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The main parties have had the opportunity to comment on this matter as part of the appeal process, and I have had regard to the revised Framework in determining this appeal.
3. A revised Site Plan (Revision M) was submitted in support of the appeal, with a view to address some of the concerns raised by the Council. Having regard to the Wheatcroft principles¹, the revised details were not considered by the Council in their determination of the planning application and were not subject to a period of public consultation. In addition, I am conscious that the appeal process should not be used as a means to progress alternatives to a scheme which has been refused. In the interests of fairness and natural justice, I consider that the Council and interested parties in particular would be prejudiced by the consideration of the amended proposal. My findings therefore relate to the scheme as determined by the Council.
4. There is another appeal (APP/R3650/W/21/3277100) on this site, which raises different issues, and will therefore be the subject of a separate decision.

Main Issues

5. The main issues are:

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

- The effect of the proposal on the character and appearance of the area and on the special interest of the Alfold Conservation Area, as derived from its setting;
- The effect of the proposal on the living conditions of neighbouring residents, with particular regard to privacy;
- Whether the proposal would increase the risk of flooding;
- The effect of the proposal on protected species; and
- Whether the proposal would make adequate provision for affordable housing.

Reasons

Character and appearance

6. The appeal site is located outside the defined settlement boundary for the small village of Alfold, and is identified, for planning policy purposes, as the countryside beyond the Green Belt. The appeal site remains largely undeveloped, and is bounded to the north by mature landscaping. It is also located within the setting of the Alfold Conservation Area, which to a large extent covers the built envelope of the village, and owes much of its special interest to its attractive collection of older properties and historic connections with the iron, charcoal and glass industry. By virtue of its undeveloped appearance, on the edge of the village, the appeal site provides a pleasant and verdant setting to the Conservation Area, thus making an important contribution to its special interest, but also to its wider rural surroundings.
7. The appeal site forms part of a larger site known as Chapel Fields, which has previously been granted planning permission² for the construction of 8 dwellings and a café/retail unit, which will hereafter be referred to as Phase 1. The approved scheme includes the provision of a woodland and landscaping area on the part of the site subject to the current proposal, which is for the construction of 7 additional dwellings, including 5 affordable units. At the time of my site visit, the implementation of Phase 1 was nearing completion.
8. The proposal would intensify development on the site to a substantial degree, not only in respect of the footprint and overall scale of the new houses, but also in terms of the additional areas of hardstanding required for the provision of access, parking and turning. The proposed built forms and associated hardstanding areas relative to the size of the site would consolidate development along the road frontage and significantly reduce the amount of space available for the provision of meaningful landscaping, which formed an essential aspect of the previous scheme to soften the visual impact of Phase 1.
9. Furthermore, a large part of the terraced properties' garden areas would be overshadowed by the trees. As a result, it is likely that the proposed arrangement would subject the trees to additional pressure for pruning works or even felling, in order to bring more sunlight into the amenity areas. The potential loss of trees would exacerbate the harm which the development would cause to the area.
10. Due to the quantum of development proposed, but also its scale and layout, the appeal scheme would also have an urbanising effect, which would appear

² Local Planning Authority Reference WA/2018/0977.

as an incongruous addition, out of kilter with the semi-rural character and appearance of the surrounding area. It would thus erode the contribution made by the site to the spacious and verdant nature of its wider rural surroundings, and in doing so fail to recognise the intrinsic character and beauty of the countryside.

11. For these reasons, the proposal would also fail to preserve the special interest of the Alfold Conservation Area, as derived from its setting, and cause less than substantial harm to this designated heritage asset, to which I ascribe considerable importance and weight. In accordance with the requirements of paragraph 202 of the Framework, the harm should be weighed against the public benefits of the proposal. Whilst the appeal scheme would enable the construction of market and affordable homes, I have been presented with no public benefits which would outweigh the harm identified.
12. The appellant considers that the development at Lindon Farm, which lies within proximity to the appeal site, has fundamentally changed the character of the area. However, this particular scheme comprises single storey, low density buildings which, to the difference of the appeal proposal, appear unobtrusive and respect the rural character of its surroundings.
13. Given the above, the appeal proposal would cause unacceptable harm to the character and appearance of the surrounding area and would fail to preserve the special interest of the Alfold Conservation Area, as derived from its setting. It would subsequently conflict with Policies RE1, TD1 and HA1 of the Waverley Borough Local Plan Local Plan Part 1: Strategic Policies and Sites³ (LPP1) and Saved Policies D1, D4 and HE8 of the Waverley Borough Local Plan 2002 - Retained Policies February 2018 (LP). Amongst other things, these seek to ensure that the intrinsic character and beauty of the countryside is recognised and safeguarded, and that the significance of the heritage assets within the Borough are conserved or enhanced to ensure the continued protection and enjoyment of the historic environment.

Living conditions

14. The proposed terrace would be sited within proximity to the boundary shared with Sandy Court. The rear elevation of the terrace includes many windows and rooflights, several of which would serve habitable rooms. The orientation of these openings towards this neighbouring site would enable future occupiers of the development to overlook directly, and from a relatively modest distance, a large part of the private outdoor space of Sandy Court. This unneighbourly arrangement would lead to a loss of privacy, which would be detrimental to the living conditions of these neighbouring residents and their enjoyment of their private outdoor space.
15. Although there are mature trees on the boundary shared with Sandy Court, there is no guarantee that the vegetation would remain in place for the lifetime of the development. Further hedging is also proposed to be planted along this boundary, but it would in all likelihood take a considerable period of time to mature before it would provide any effective screening. Moreover, the proposed planting may not remain in perpetuity, as it could become diseased or harmed during extreme weather events. As such, these considerations do not persuade

³ February 2018.

me to alter my view in respect of the loss of privacy which would be experienced by existing and future occupiers of Sandy Court.

16. Given the above, and whilst I note that the occupiers of Sandy Court did not object to the proposal, it is my view that the appeal scheme would have a detrimental effect upon the living conditions of neighbouring residents, with particular regard to privacy. It would therefore fail to accord with the design aims of Policy TD1 of the LPP1 and Saved Policies D1 and D4 of the LP which notably seek to ensure that development proposals do not significantly harm the amenities of occupiers of neighbouring properties by way of overlooking.

Flood risk/Drainage

17. Concerns have been raised by the Lead Local Flood Authority (LLFA), as the planning application was supported by the drainage strategy which had been previously agreed in respect of Phase 1. Additionally, the Council has highlighted discrepancies between the location of the attenuation basin which had been agreed for Phase 1 and the position of parking spaces P09-P12 and associated hardstanding areas.
18. As the appeal scheme would result in the construction of 7 additional dwellings with associated hardstanding and parking areas, the LLFA would expect the submission of additional information demonstrating that there is available capacity within the surface water attenuation system agreed for Phase 1 to provide storage for the current proposal.
19. The appeal is supported by a Drainage Technical Note⁴ (DTN) which includes a plan showing that there would be sufficient space to accommodate the attenuation basin next to the parking spaces. The DTN also seeks to reflect the changes resulting from the additional areas that contribute to surface water run-off, and additional permeable areas.
20. Having regard to the available evidence, it is however unclear whether the surface water hydraulic modelling has been revised accurately due to the lack of detailed information in respect of the calculation of the additional impermeable and permeable areas. Furthermore, whilst it is suggested that further attenuation could be added to the existing scheme if necessary, no details have been provided to show how this could be accommodated satisfactorily. I cannot therefore be certain that there is sufficient capacity within the surface water attenuation system previously agreed to cater for Phase 2.
21. Consequently, it remains unclear whether flood risk would be adequately minimised on site and would not be increased elsewhere. In the absence of substantive evidence to the contrary, the proposal would not be in accordance with Policy CC4 of the LPP1, which notably seeks to ensure that development is located, designed and laid out to ensure that the risk of flooding is minimised whilst not increasing the risk of flooding elsewhere.

Protected species

22. The appeal scheme is accompanied by a Landscape and Ecological Management Plan⁵ (LEMP), which has been prepared by ACD Environmental to comply with

⁴ Drainage Technical Note prepared by Motion, dated 14 April 2021.

⁵ Dated 15 April 2020.

one of the conditions attached to the Council's decision to grant planning permission for Phase 1. The LEMP is supported by an Ecological Enhancements Plan, which shows the appeal site as a woodland and parkland area designed to provide a source of nectar for pollinating insects and a habitat for a range of small mammals.

23. However, the current proposal does not appear to be supported by an Ecological Survey or Appraisal. Whilst a similar exercise may have been carried as part of the planning application for Phase 1, I have been presented with no detailed, up-to-date information to ascertain the reasonable likelihood of protected species being present on or near the site. Consequently, the effect of the development on protected species cannot be assessed, nor can the need for potential mitigation measures be established.
24. As confirmed by Circular 06/2005, 'it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'.
25. Furthermore, and having regard to the available evidence, the Ecological Enhancements Plan agreed for Phase 1 could not be implemented fully if the dwellings which make up Phase 2 were to be constructed. It is also unclear whether there would be further biodiversity enhancement measures as part of the proposal before me.
26. In the absence of substantive evidence to the contrary, the reasonable likelihood of protected species being present on site or near the site cannot be excluded and the effect that the development could have on them or their habitats, cannot be appropriately assessed. Accordingly, the appeal scheme would run contrary to Policy NE1 of the LPP1, which seeks to conserve and enhance biodiversity within Waverley.

Affordable Housing

27. Policy AHN1 of the LPP1 requires a minimum provision of 30% affordable housing on all housing developments, subject to a number of criteria. There is no dispute between the main parties that Phase 1 and Phase 2 have to be treated holistically as a single development which would deliver a total of 15 dwellings, thus triggering the need to provide a number of affordable homes. The appeal scheme would provide five affordable units, which would represent a provision of 33.33% affordable housing. This would exceed the requirements of Policy AHN1 of the LPP1.
28. As set out in the Inspectorate's Procedural Guide for Planning Appeals, if the appellant intends to send a planning obligation and wants to be certain that it will be taken into account by the Inspector, he must make sure that it is executed and a certified copy is received by the Inspectorate no later than 7 weeks from the start date.
29. A legal agreement has been submitted during the course of the appeal to secure the provision of affordable housing. However, I have some concerns about the execution of the legal agreement. For example, it is not dated, and has not been signed by the Council. As I intend to dismiss the appeal for other reasons, I have not pursued the matter further with the main parties.

30. Nonetheless, as it stands, I am not satisfied that the submitted planning obligation has been corrected executed and the proposal would therefore not adequately provide for affordable housing, contrary to the requirements of Policy AHN1 of the LPP1.

Planning Balance

31. The Council has drawn my attention to their Five Year Housing Land Supply Position Statement published in November 2021, which suggests that the Council currently has 5.2 years of housing land supply. However, the appellant's submissions suggest that the Council is presently unable to demonstrate a five-year supply of deliverable housing sites. In a recent appeal decision⁶, the Inspector found that there is a housing land supply equivalent to 4.01 years, which represents an important shortfall. No further evidence has been presented by the Council in this regard.
32. In circumstances where the Council is unable to demonstrate a 5-year supply of deliverable housing sites, paragraph 11d) of the Framework, as directed by Footnote 8, advises that permission should be granted, unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
33. The appeal proposal would support the local economy and boost housing supply and choice, to which I ascribe moderate weight. It would also enable the construction of affordable homes. However, in the absence of appropriately executed planning obligation to secure the provision of affordable housing, this is a consideration which can only be afforded very limited weight.
34. Against that, the appeal scheme would cause unacceptable harm to the character and appearance of the surrounding area and would fail to preserve the special interest of Alfold Conservation Area, as derived from its setting. Furthermore, the proposal would have a detrimental effect on the living conditions of neighbouring residents. These are considerations, to which I ascribe very significant weight. Insufficient information has also been submitted in respect of the effect of the development on flood risk and protected species, which weigh against the proposal.
35. Overall, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits resulting from the development, when assessed against the policies in the Framework taken as a whole. The appeal scheme does not, therefore, benefit from the presumption in favour of sustainable development.

Conclusion

36. There are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR

⁶ APP/R3650/W/21/3278196.