



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: 6 April 2022

Appeal Ref: APP/R3650/W/21/3278702

Land at Crown Lane, Badshot Lea, Farnham, Surrey, GU9 9JW

- 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 Michael Coomber against the decision of Waverley Borough Council.
 - The application Ref WA/2020/0651, dated 5 February 2020, was refused by notice dated 15 January 2021.
 - The development proposed is outline application for the erection of 5 detached single storey dwellings not exceeding 100 sqm per unit plus single garage. Access from Crown Lane, Badshot Lea.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with all matters reserved for future consideration. A possible layout has been submitted together with a potential typical bungalow floor plan. These are not formally part of the proposal but are indicative of one way in which the site could be developed.
3. A draft Unilateral Undertaking under s106 of the Town and Country Planning Act was submitted as part of this appeal. This would provide for Special Protection Area and Strategic Access Management and Monitoring contributions and is discussed further below.
4. 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(the Framework) was published in July 2021 so the references to the 2019 Framework on the decision notice have been superseded.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 Parties have had the opportunity to comment on the implications for this appeal.
5. 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 Retained¹ Policies of the Local Plan 2002 (the 2002 LP). The Draft Local Plan Part 2 (the emerging LP) is at a relatively early stage in the adoption process and its policies carry limited weight in this appeal.

Main Issues

6. The main issues are: whether the proposal would accord with the spatial strategy including the effect of the proposal on the character and appearance of the area; whether safe and satisfactory access would be available for all; the

¹ I have described these Policies as 'Retained' rather than 'Saved' as this is how the Council has referred to them

effect on the availability of agricultural land; and the effect on protected species and habitats.

Reasons

Spatial strategy and the effect on character and appearance

7. 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 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.
8. The NP explains that the Built-Up Area Boundary for Farnham aims to enable development opportunities within the town whilst protecting its rural setting. The appeal site is outside the defined Built-Up Area Boundary. 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.
9. FNP10 states that outside the revised Built-Up Area Boundary proposals will only be permitted where they comply with the specified criteria. 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 not new dwellings. 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. Accordingly the proposal gains no support from the above Policies and so would conflict with Policy FNP10.
10. Retained Policy C4 of the 2002 LP and Policy RE3 of the LP seek to protect the gap between Farnham and Aldershot from inappropriate development. The accompanying text to the latter states that a much more focused policy will be developed to safeguard the strategically important land separating Farnham from Aldershot. The emerging Plan is at an early stage and carries limited weight in this appeal. Even so I note that the site does not come within or near the Gap as proposed within the emerging Plan and does not fall within any of the other identified special character areas. I therefore consider there to be limited conflict with Retained Policy C4 or Policy RE3.
11. Policy FNP11 of the NP seeks to prevent the coalescence of a number of settlements. The appeal site together with land to the north helps provides separation between Badshot Lea and Weybourne two of the settlements that the Policy seeks to ensure retain their separate identities. The target for Policy FNP11 is no new buildings outside of the Built-Up Area Boundary as defined in the Neighbourhood Plan. The proposal would contravene Policy FNP11 by introducing built development where there is none.

12. The appeal site is a triangular piece of land bounded on one side by a railway line, Crown Lane on another and field(s) to the north. There are scattered dwellings along the lower part of Crown Lane including Orchard Cottage on the opposite side of Crown Lane so the site is not isolated.
13. The land is generally flat other than where it rises up to the bridge crossing the railway line. It is predominantly used as rough pasture and there are items of scrap, other materials, vehicles and a spoil heap on the land. It is unkempt in appearance and contains little by way of intrinsic beauty in terms of Policy RE1 of the LP or the Framework. Nevertheless it forms part of the semi-rural character of the immediate area and the proposal would have a harmful urbanising effect on this character even though the intention is for single storey dwellings and site density would be relatively low. There would therefore be some conflict with Policy RE1 of the LP and Retained Policies D1 and D4 in these respects.
14. In summary I conclude the proposal would not accord with the spatial strategy and would have a harmful effect on the character and appearance of the area. The proposal would conflict with Policies RE1 and RE3 of the LP; Policies FNP10 and FNP11 of the NP; Retained Policies C4, D1 and D4 of the 2002 LP; and those principles of the Framework that seek a plan led approach to spatial strategy and to protect the countryside.

Access

15. Crown Lane is predominantly a single carriageway which is very narrow in places, including along part of the site frontage. It is mainly unlit with no footpath apart from the section closest to Badshot Lea Road and very limited verges in part. I am also advised by neighbours that it is poorly drained. Due to its narrowness, the lack of places of refuge in the event of meeting a vehicle, and the distance to Badshot Lea Road, whether or not it is becoming increasingly important as a local cycling route, Crown Lane is unlikely to be attractive as an alternative to the private vehicle for accessing facilities and services. This would particularly be the case during hours of darkness or inclement weather or for those with small children or impaired movement.
16. For the above reasons future occupiers of the proposed dwellings would be likely to rely on the private vehicle for their day to day needs even if the distance to bus stops on Badshot Lea Road is about 300m as indicated by the appellant. Accordingly the proposal would significantly increase vehicle movements along the narrow section of Crown Lane even if the bungalows were to be occupied by retired people as it would double the number of dwellings served by it. In the absence of any measures to address this I consider the proposal would reduce the safety of users of the highway.
17. The existing site access is about half way along the site frontage. From this point southwards Crown Lane widens somewhat then rises to the bridge over the railway where it reverts to single carriageway width. The wider section of Crown Lane appears to be because of the access to Orchard Cottage opposite and Crown Drive, itself relatively narrow, which comes off Crown Lane at an oblique angle, and which serves a number of dwellings.
18. The appeal site is on the inside of a bend with some visibility in both directions. However, visibility towards Bagshot Lea Road is impeded particularly at times when the vegetation is in full leaf. In order to achieve access suitable for the

increased traffic movements that would be generated by the proposed development it would be necessary to use highway land but it is not unusual for that to be the case.

19. The Highway Authority is concerned that, as shown on the illustrative plan, there would be insufficient room within the curtilages of Plots Four and Five to turn a vehicle. Reversing movements would be likely to lead to conflict with vehicles entering and leaving Crown Drive and Orchard Cottage and have a harmful effect on highway safety. I acknowledge that all matters are reserved for future consideration. However, given the awkward shape of the site; the need for a buffer against railway noise; and the embankment leading to the bridge; it seems likely that some similar layout would be necessary as it would be difficult to envisage how a shared access for five properties could otherwise satisfactorily be accommodated within the site.
20. Taking all the above into account I conclude the proposal would not provide safe and satisfactory access for all. Accordingly I find conflict with Policy ST1 of the LP and those principles of the Framework that seek to provide safe and satisfactory access for all.

Agricultural land

21. The appeal site is used as a grazing paddock and may have been part of the field(s) behind in the past. The appellant indicates that at the time of the appeal Ref APP/R3650/W/15/3132971 (the Bewley Homes appeal) that land was appraised as Grade 3 and described "*... as poor quality pasture with low fertility which offers little scope for efficient agricultural production.*"
22. I acknowledge this does not prove that the current appeal site is not Grade 3a, the lowest category of the best and most versatile agricultural land. However, even if it were, given the constraints of the railway line; different ownerships; and the size and shape of the site; it seems unlikely it could amount to a viable agricultural holding, even if it could be combined with the field(s) behind which are also constrained by the railway line as well as adjoining housing.
23. I conclude that, although it has not been demonstrated that the appeal site is not best and most versatile land, its loss would not significantly affect the availability of agricultural land. Accordingly I find little conflict with Retained Policy RD9 of the 2002 LP or those principles of the Framework which seek to protect the best and most versatile agricultural land.

Protected Species and habitats

24. The appeal site contains a sizeable area of wood/scrub land as well as the grazing paddock and is bounded in parts by hedgerows. Without an appropriate ecological survey the ecological consequences for protected species and their habitats in and near the site cannot be established.
25. The appellant refers to information submitted as part of the Bewley Homes appeal. At that time it was found that the proposal would not prejudice the ecological value of that site. Even if the ecological information submitted as part of the Bewley Homes appeal also covered this appeal site it would not be sufficiently up to date to be relevant for the purposes of the appeal before me.
26. A buffer zone to the railway line is likely to be required to help mitigate against noise from the railway line and could incorporate habitats. However, it is not

clear what would be required to establish a noise buffer and, in the absence of appropriate ecological information to the contrary, I cannot confidently conclude that there would be no harmful effect on protected species or their habitats.

27. The site is within 5km of the Thames Basin Heaths Special Protection Area (SPA) The proposal would result in a permanent increase in people on the site. Although the Officer Report states that an Appropriate Assessment has been undertaken to comply with the Conservation of Habitats and Species Regulations 2017, the Council has subsequently stated this was not the case.
28. If I was minded to allow the appeal, it would be necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SPA. This would need to be completed without taking into account any proposed mitigation. There is insufficient information available for me to carry out the requisite Assessment. Without this step I cannot conclude whether mitigation in the form of the obligations proposed in the draft Unilateral Undertaking would be sufficient. I also note the required proof of title has not yet been forthcoming.
29. Had my conclusions on the other main issues been otherwise I would have sought more information on these matters. In the circumstances it is not necessary or appropriate for me to do so. For the above reasons I find conflict with Policy NE1 and NE3 of the LP; Policies FNP12 and FNP13 of the FNP; the Thames Basin Heaths SPA Avoidance Strategy 2016 and those principles of the Framework that seek to protect the ecological integrity of designated habitats and to protect species and habitats.

Other Matters

30. The appellant refers to the Bewley Homes appeal as being “successful”. However, whilst the Inspector recommended that the appeal be allowed, the Secretary of State disagreed and dismissed the appeal.
31. The Five Year Housing Land Supply Position Statement in November 2021, with a base date of 1 April 2021, indicated the Council could demonstrate a supply of 5.2 years. The appellant has put forward no evidence to challenge this: rather the stated intention is to provide an alternative to modern high rise high density accommodation.

Planning Balance and Conclusion

32. I have found that the proposal would conflict with the spatial strategy which seeks to focus development within main settlements; it is in the countryside where planning policy seeks to restrict inappropriate development; it erode the gap between settlements; and it is not a site allocated for development in the NP. These matters carry great weight. I have also found there would be harm to the rural character of the area, although the weight given to this is moderate as the land does not in itself have much by way of intrinsic beauty. I have found that safe and satisfactory access would not be provided for all and that I cannot confidently conclude there would be no harm to protected habitats and species. I give these matters great weight.
33. On the other hand the proposal would make use of under-used land and would provide additional small scale residential units which are an identified need in the Borough. However, given the access limitations set out above I give this

less than moderate weight. The proposal would also provide economic benefits during the construction period and from spend in the local economy. Due to the small scale of the proposal these benefits attract less than moderate weight.

34. In failing to comply with the development plan policies set out above the proposal could not be said to comply with the development plan as a whole. The Council indicates it can demonstrate the requisite supply of deliverable housing land. I find no material considerations, including the provisions of the Framework, which indicate a decision other than in accordance with the development plan.
35. Even in the event that the requisite supply of deliverable housing land could not be demonstrated I consider that the adverse impacts I have identified would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework as a whole.
36. For the reasons given above I conclude that the appeal should be dismissed.

S Harley

INSPECTOR