
Appeal Decision

Site visit made on 29 March 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2022

Appeal Ref: APP/P1750/W/21/3284132
71 Tongham Road, Aldershot GU12 4AR

- 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 Trudy Nix & David Haines against the decision of Rushmoor Borough Council.
 - The application Ref 21/00331/FULPP, dated 23 April 2021, was refused by notice dated 18 June 2021.
 - The development proposed is construction of an attached dwelling to the existing semi-detached property to create a terrace of 3 following the demolition of existing detached garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted new evidence relating to site plans. These evolved the design of the proposal compared to what was considered by the Council when determining the application and on which other interested parties were originally consulted.
3. It is important to consider if accepting this new evidence would deprive those who should have been consulted on the changed proposal of the opportunity of such consultation, in accordance with the Wheatcroft Principles.
4. On this basis, there have been changes to the configuration of fundamental components of the proposal and accepting amendments of the nature put forward would prejudice the involvement of other interested parties.
5. Guidance¹ is clear that if an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by me is essentially what was considered by the Council, and on which interested parties' views were sought.
6. Consequently, the appeal has been decided using the site plan that was originally considered by the Council and it has not been necessary to resolve any disputes which might have emerged and relate solely to the new site plans.

¹ Procedural Guide: Planning Appeals – England – Annexe M.

7. 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 later in my decision.
8. I note the appellant's assertion that the Council's appeal statement may only deal with four reasons for refusal. However, it is clear that the Council's appeal statement is to be read in conjunction with the delegated officer report, where together with the decision notice, the reasons for refusal are clear. The appeal has been dealt with accordingly.

Main Issues

9. The main issues are whether the proposal:
 - (a) is acceptable in relation to flood risk;
 - (b) the effect of the proposal on the character and appearance of the area;
 - (c) the effect of the proposal on highway safety, including car parking, cycle parking and refuse storage; and
 - (d) whether off site public open space improvements are necessary and suitably provided.

Reasons

Flood Risk

10. The site is in Flood Zone 2, which is a flood zone with a medium probability of flooding². The proposal is for residential development, which is more vulnerable to the effects of flooding³.
11. Any assessment needs to be based on existing flood zone classifications, and there is no evidence that characteristics of watercourses on the ground should be used to supplement flood zone classification.
12. The proposal does not meet criteria under Paragraph 168 of the National Planning Policy Framework (the Framework) and is not exempt from either of the sequential or exception tests.
13. Paragraph 162 of the Framework is clear that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source.
14. Development should not be permitted if there are reasonably available sites appropriate for the proposal in areas with a lower risk of flooding. Guidance⁴ is also clear that the aim should be to keep development out of flood zones with a medium or high probability of flooding.
15. In this context, the Council has identified a number of alternative sites within the area which are similar in nature to the proposal, including very similar sites for single dwellings.

² Planning Practice Guidance, Paragraph: 065 Reference ID: 7-065-20140306

³ Planning Practice Guidance, Paragraph: 066 Reference ID: 7-066-20140306

⁴ Planning Practice Guidance, Paragraph: 018 Reference ID: 7-018-20140306

16. Some of the other sites might not be identical in configuration, such as proposals for flats, but they would be broadly comparable for the purposes of being treated as alternative sites.
17. For example, and fundamentally, conversions and replacement dwellings would provide units of residential accommodation of a similar quantum and scale to the proposal despite diverging somewhat from the layout and form of the proposal.
18. I am not persuaded that replacement dwellings should be fundamentally discounted because it is possible to deliver a replacement dwelling that improves housing mix in the area.
19. Similarly, I am not persuaded that an absence of a response from land agents is firm evidence that a site is unavailable, it is reasonable to require definitive confirmation before discounting the sites subject to enquiries.
20. It is acknowledged that some of these alternative sites should be discounted because the planning permissions which they enjoy have been implemented to at least some degree.
21. However, it is clear that a number of alternative sites⁵ were reasonably available at the time of the original application, whilst alternative sites⁶ were also reasonably available at the time of the appeal.
22. I am satisfied that the Council's approach has been pragmatic in this regard and that the appellant has not demonstrated all of the identified sites should be discounted, to the extent that there would be a lack of reasonably available sites appropriate for the proposal in areas with a lower risk of flooding.
23. The appellant identified another application⁷ in the vicinity that they contend was granted planning permission on the basis of passing a sequential test due to considerations about lapsed planning permissions.
24. However, the full details are not in front of me and there is no evidence, such as policies within the Framework or wording within Planning Practice Guidance, to suggest that the Council should be restricted to considering the sequential test in this way or that their current approach is flawed.
25. Consequently, and altogether, the proposal fails the sequential test and given that both tests must be passed in succession⁸, it is not necessary for me to apply the exception test.
26. Overall, the proposal fails to satisfy the sequential test and would not be in an acceptable location for housing in relation to flood risk. It would therefore conflict with Policy NE6 of the Rushmoor Local Plan 2019 and Paragraph 162 of the Framework.

⁵ 18/00582/FUL and 20/00653/FULPP

⁶ 22/00042/FULPP and 21/00132/FULPP

⁷ 16/00090/FULPP

⁸ Planning Practice Guidance, Paragraph: 035 Reference ID: 7-035-20140306

Character and Appearance

27. The site is at 71 Tongham Road, which is in a prominent location next to a highway junction. Consequently, developing the site would have a more noticeable impact on the character and appearance of the street scene.
28. Whilst the general principle and design of the proposal is not in dispute, it is clear that the amount of off street parking spaces required would lead to the erosion of existing landscaping and the cramped layout would limit opportunities for compensatory landscaping.
29. Consequently, the frontage of the site would take on a starker appearance within the street scene, which would be prominent due to the nature of the location. Without landscaping to soften the built form of the dwellings and the hardstanding of the off street parking spaces there would be unmitigated harm from the predominance of built form and parked vehicles.
30. Whilst it is sometimes possible to secure landscaping, cycle parking and refuse storage by planning condition, it is not clear that the size of the site and scale of the proposal would enable these aspects of the proposal to be realised, whilst also maintaining the required dimensions and standards associated with other aspects of the proposal.
31. Overall, the proposal would harm the character and appearance of the area and conflict with Policies DE1 and DE11 of the Rushmoor Local Plan 2019.

Highway Safety

32. The development plan seeks to ensure that new proposals make suitable provision for off street parking spaces. The Car and Cycle Parking Standards Supplementary Planning Document 2017 sets out that for two and three bedroom dwellings, two off street parking spaces should be provided, which each space being a minimum dimension of 2.5m by 4.8m in dimension.
33. However, the spaces provided in this case are adjacent to a wall and therefore guidance requires a dimension of 3m by 4.8m. Consequently, the proposal is deficient in this respect, which could lead to an increase in on street parking demand and harm to highway safety.
34. Furthermore, whilst it may be possible to reconfigure some of the off street parking spaces associated with the additional dwelling, there are limited options to reconfigure spaces outside of the existing dwelling, causing obstruction to access routes and deficiencies in meeting the 0.9m minimum width requirement as set out within Car and Cycle Parking Standards Supplementary Planning Document 2017.
35. Overall, the proposal would harm highway safety and conflict with Policy IN2 of the Rushmoor Local Plan 2019 and Car & Cycle Parking Standards Supplementary Planning Document 2017.

Public Open Space

36. The development plan seeks to ensure that new proposals make suitable contributions to the provision of open space and the proposal in this case is of a size where a financial contribution is considered more appropriate than onsite contribution.

37. The Council state that the Parks Manager has identified schemes of public open space improvement work in the vicinity of the site, which would benefit the occupants of the proposed new dwelling. Consequently, a planning obligation securing a financial contribution would seem necessary in this case.
38. However, the consultation response or details of the improvement schemes have not been provided. Furthermore, there is no supplementary guidance submitted to demonstrate how the financial contribution has been calculated or how it would be fairly related to the development proposed.
39. Overall, whilst I cannot conclude that the figure in this case would be fairly related to the development proposed, a planning obligation and financial contribution would still be necessary. Consequently, in the absence of such, the proposal would conflict with Policies DE6 and DE7 of the Rushmoor Local Plan 2019.

Other Matters

40. The site is within the zone of influence of the Thames Basin Heaths SPA. However, given that I am dismissing the appeal for other reasons it is not necessary for me to make a finding on the likely significant effects of the proposal.
41. Whilst lack of biodiversity enhancement was cited within the Council's reasons for refusal, it is clear from their statement that they are open to securing such enhancement by planning condition.
42. As I am dismissing the appeal for other reasons, and there is no evidence that such enhancement would outweigh the identified cumulative harm under the main issues, it has not been necessary to deal with this matter further.

Conclusion

43. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR