



Appeal Decision

Site visit made on 29 November 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2023

Appeal Ref: APP/N1730/W/21/3289601

144 Aldershot Road, Church Crookham, Fleet GU52 8JT

- 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 MC Crookham Property Ltd against the decision of Hart District Council.
 - The application Ref 21/01243/FUL, dated 29 April 2021, was refused by notice dated 6 August 2021.
 - The development proposed is demolition of the existing dwelling and erection of 4 no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's third reason for refusal referred to an absence of sufficient information relating to the proposed vehicular access to the appeal site. As part of the appeal, an additional site plan¹ was provided showing proposed visibility splays. The Council has confirmed that based on the additional site plan, the Highway Authority has removed its objection to the proposal, subject to conditions being attached to any grant of planning permission. The Council's third reason for refusal has therefore been resolved.

Main Issues

3. Taking the above into account, the main issues are:
 - i. The effect of the proposal on the integrity of the Thames Basin Heaths Special Protection Area (SPA);
 - ii. The effect of the proposal on the character and appearance of the area;
 - iii. The effect of the proposal on trees; and
 - iv. Whether the proposal would provide an appropriate mix of dwelling types and sizes.

Reasons

The SPA

4. The SPA is a network of heathland sites designated as a European Site, as defined by the Conservation of Habitats and Species Regulations 2017 (as

¹ Drawing No. 20-J3463-200 Rev. A, dated 8 July 2021

amended) (the Habitats Regulations). This is on account of the habitat it provides for internationally important bird species. The conservation objectives of the SPA are to maintain and restore the habitats of those protected bird species. Those species can be subject to disturbance from walkers and domestic pets including dogs and cats.

5. The appeal site lies within the Zone of Influence of the SPA, covering the area between 400 metres and 5 kilometres of the SPA. Within the Zone of Influence, new residential development has the potential to have a significant effect on the integrity of the SPA either alone or in combination with other plans and projects through increased recreational disturbance to the SPA. The proposal is therefore likely to have a significant effect on the conservation objectives of the SPA and the Habitats Regulations require me to undertake an Appropriate Assessment.
6. The Council consulted Natural England during the application process, and they raised no objection to the proposal provided that appropriate mitigation would be secured, in accordance with the Council's development plan. Policy NRM6 of the South East Plan (2009) (SEP) and Policy NBE 3 of the Hart Local Plan (Strategy and Sites) 2032 (2020) (HLP) set out the principles that apply to new development likely to have a significant effect on the integrity of the SPA. These include the need for new dwellings located within the Zone of Influence to deliver mitigation measures prior to occupation and in perpetuity. Those mitigation measures must be based on a combination of Strategic Access Management and Monitoring (SAMM) and the provision and maintenance of Suitable Alternative Natural Greenspace (SANG), amongst other things.
7. I have been provided with a copy of a legal agreement dated 12 July 2022, entered into by the appellant and the Council. The legal agreement secures a financial contribution towards SAMM relating to the SPA and sets out that the appellant has secured an area of SANG as specified in the 'SANG Confirmation Consent' attached to the legal agreement. The purpose of the SANG would be to discourage future residents of the proposal from accessing the SPA. The legal agreement defines the SANG Confirmation Consent as documentary evidence confirming that a binding legal contract to secure the allocation and provision of the SANG has been entered into between the appellant and the owner of the land which the SANG forms part of.
8. The SANG Confirmation Consent comprises a Deed of Covenant between the appellant and Taylor Wimpey Developments Limited dated 25 June 2021 and a Deed of Variation dated 12 November 2021. These confirm that Taylor Wimpey Developments Limited agreed to allocate the area of land which would form the SANG to the appellant, in accordance with the terms of the Deeds. Clause 4.2(c) of the Deed of Covenant sets out that the Deed shall automatically terminate if no planning permission is granted for the appeal scheme within 12 months of the date of the Deed. The Deed of Variation extends that period to 17 months. That period has expired, and I have not been provided with evidence which confirms the allocation and provision of the SANG has been secured.
9. I have considered whether a condition could be used to require an appropriate SANG to be secured through a further Deed of Variation, planning obligation or other formal agreement in accordance with the tests set out at Paragraph 56 of

the National Planning Policy Framework. The Planning Practice Guidance² advises that positively worded conditions requiring planning obligations or other agreements to be entered into are unlikely to be enforceable, and negatively worded conditions requiring the same are unlikely to be appropriate in the majority of cases. There is no clear evidence that the delivery of the proposed development would otherwise be at serious risk. For these reasons I am unable to attach a condition requiring an appropriate SANG to be secured through a further Deed of Variation, planning obligation or other formal agreement.

10. The proposal is likely to result in increased recreational disturbance to the SPA either alone or in combination with other plans and projects. This would affect the conservation objectives of the SPA. As there is no formal confirmation that appropriate SANG has been secured, adverse effects on the integrity of the SPA caused by the proposal cannot be excluded.
11. The Habitats Regulations require me to consider whether there are any alternative solutions, but appropriate mitigation measures have not been secured and I am not aware of any other solutions. I must also consider whether there are any imperative reasons of overriding public interest, but I do not find the provision of a net increase of 3 dwellings in this case to comprise such a high level of public interest. Therefore, having regard to the Habitats Regulations, planning permission must not be granted.
12. In the absence of formal confirmation that appropriate SANG has been secured, the proposal would fail to avoid adversely affecting the integrity of the SPA. This would be contrary to Policy NRM6 of the SEP and Policy NBE 3 of the HLP, the requirements of which are outlined above. It would also conflict with Policy NBE 4 of the HLP, which seeks to conserve and enhance biodiversity by avoiding such development, amongst other things.

Character and Appearance

13. The appeal site comprises a detached dwelling located close to the front boundary, with a vehicular access and space to the side and a long garden to the rear. It is located within a residential area characterised by a mix of medium to large sized houses, which are mainly detached, interspersed with trees.
14. It is proposed to demolish the existing four-bedroom dwelling and erect 4 three-bedroom dwellings. Plots 1 and 2 would be detached houses, either side of an access drive, at the front of the appeal site; plots 3 and 4, to the rear of Plots 1 and 2, would be a pair of semi-detached houses with double car ports to each side. The Council has raised no objection to the appearance and massing of the proposed dwellings and I see no reason to disagree.
15. The appeal site is located within an area referred to as Church Crookham Estates Neighbourhood Area B within the Council's Urban Characterisation and Density Study (2010) (UCDS). The UCDS describes this area as being predominantly comprised of late Victorian and Edwardian residential development, with narrow set-backs of 2 to 4 metres and buildings following common frontage lines built long side to the street, amongst other things. It

² Paragraph: 010 Reference ID: 21a-010-20190723

states the typical housing density of this neighbourhood area is 22 units/hectare and it has a medium sensitivity to change.

16. Neighbouring cul-de-sac developments at Wynne Gardens, Laburnum Gardens, and Azalea Gardens do not form part of the neighbourhood area identified in the UCDS. The UCDS therefore provides a broad, generalised description of the character of some of the surrounding area which does not include all of the immediate surroundings of the appeal site.
17. While some neighbouring buildings have narrow set-backs from the highway and have been built long side to the street, there are examples of much wider set-backs and houses built with narrow sides to the street. The appeal dwelling is an example of an older building which appears to have been originally built with its long side to the street, and since extended substantially to the rear. Although it displays characteristics mentioned as common in the locality by the UCDS, it is of limited aesthetic value amongst the mixed frontages locally.
18. The proposed dwellings at plots 1 and 2 would have their narrow sides facing the highway. They would be narrower than most buildings facing onto this part of Aldershot Road, but not all. Their style and finishes would be sympathetic to their surroundings and would comprise high quality design amongst mixed existing frontages on either side of this part of Aldershot Road. Their relatively narrow widths would not jar with the prevailing character of the area and would make a positive contribution to the appearance of the area.
19. The appeal building is roughly in line with the frontage of the neighbouring house at 146 Aldershot Road. The intervening development of Laburnum Gardens between 146 and 152 Aldershot Road ensures the appeal building does not form part of a locally distinctive building line. The thick planting, garages and access drives/paths in front of dwellings in Laburnum Gardens disrupt any historic continuity of common frontage lines.
20. The appellant states the dwelling at 146 Aldershot Road is set back 5.5 metres from the highway. The proposed dwelling at plot 1 would be set back 1 metre from the dwelling at 146 Aldershot Road, while the proposed dwelling at plot 2 would be set further back, 9.5 metres from the highway. The properties on the opposite side of Aldershot Road are said to be set back between 8 to 12.5 metres from the street, and the properties in Laburnum Gardens are said to range between 13 to 16 metres from Aldershot Road. The proposed set-backs of plots 1 and 2 would not therefore be out of character with the surrounding area.
21. The proposal would have a density of 29 units/hectare, which would be higher than surrounding densities. The appellant has provided calculations of neighbouring groups of development which suggest densities of 24.4 to 27.9 units/hectare are more typical for the appeal site's immediate surroundings than the 22 units/hectare referred to in the UCDS. Densities vary locally, and they appear to be much lower in Wynne Gardens and Laburnum Gardens. The slightly greater density proposed in comparison to neighbouring development on a plot of this size would not be obvious in the street scene. The layout and overall design of development proposed at this density would not appear out of place or overdeveloped in the context of local surroundings.
22. The layout, form and density of a development at 160-162 Aldershot Road appear similar to those of the appeal proposal. I appreciate that nearby

developments may have been built some time before current planning policies were adopted, but they all form part of the established character of the area.

23. The proposal would not be the first development to introduce building lines behind this part of Aldershot Road. In the context of other small cul-de-sacs locally, the layout, form and density of the proposal would not appear out of place, and it would complement the character and appearance of the area. The proposal would therefore accord with Policy NBE9 of the HLP and Saved Policy GEN1 of the Hart District Local Plan (Replacement) 1996-2006 (2006) (HLP^r). These require, amongst other things, development to seek to achieve high quality design and to positively contribute to the overall appearance of the local area.

Trees

24. Trees are a prevalent feature of the area which make a positive contribution to its character and appearance. The appeal site is bordered to the west by a narrow strip of woodland and prominent trees are also located to the rear and east of the appeal site. The appellant's Tree Survey Schedule³ indicates that 3 of those are category B trees and all others are category C trees⁴, with only 1 tree within the appeal site. None of those trees are subject to Tree Preservation Orders and the appellant proposes to carry out pruning to T4, T6 and T7 to reduce lateral branches overhanging the appeal site. There is no detailed evidence to suggest more significant pruning would be necessary for the appeal site to accommodate the proposed development.
25. The Tree Protection Plan⁵ identifies the root protection areas (RPAs) of all trees within and immediately surrounding the appeal site. None of the proposed dwellings would impinge those RPAs. Carports and a driveway would be located within the RPAs of T5, T6, T7 and T12. All of these trees make a positive contribution to the character and appearance of the area, with T6 and T12 being identified as category B trees estimated to continue making such a contribution for 20 to 40 years.
26. The proposed carports and driveways within RPAs are shown to comprise above ground construction requiring 'no-dig' principles. The same would apply to proposed garden areas of plot 2. Protection measures are proposed during construction works which could be secured by condition.
27. The Council has advised that the nature of the site suggests it is highly likely that tree roots from the adjacent woodland will run throughout the area to be developed. It is therefore suggested that the RPAs shown on the Tree Protection Plan are inaccurate and that changes in land levels and hardening of existing soft rooting space will likely result in nearby trees dying back over time. These opinions have not been supported by any detailed explanations and are based on a desktop survey. The RPAs in the Tree Protection Plan are stated to have been calculated in accordance with section 4.6 of BS5837:2012 following a brief visual inspection from the ground.
28. I have no convincing evidence which leads me to doubt the accuracy of the RPAs shown on the Tree Protection Plan. The information before me indicates that the proposal could be constructed without harming trees. As such, I am

³ By S. Kowalczyk, dated 4 December 2020

⁴ Tree quality categories in accordance with BS5837:2012

⁵ Job Ref: JSL3865, RPS Drawing/Figure Number: 710, Revision A, dated April 2021

satisfied that it would be possible to construct the proposal while avoiding unacceptable harm to trees, subject to the approval of further details of hard surfacing and drainage layouts.

29. It has been suggested that the proposed measures to mitigate root damage would be difficult to adhere to whilst allowing storage of materials and undertaking building works without pressure to move temporary protective fencing. The RPAs skirt parts of the edges of the appeal site, leaving large expanses within the appeal site where materials could be stored, if it would be essential for any to be stored within the appeal site. I am satisfied that the tree protection measures proposed would not be so onerous as to prevent them from being adhered to, which could be required by condition. Further details of where building materials would be stored and how building works would progress while maintaining appropriate tree protection measures could also be required by condition.
30. There would be some overshadowing of Plots 2, 3 and 4 caused by trees, but this would be limited due to the orientation of the appeal site and the distances between trees and the buildings proposed. The relationships between proposed gardens/buildings and trees would be similar to those seen in Wynne Gardens. This would be unlikely to create any material harm to the living conditions of future residents or create pressure to remove or significantly reduce trees.
31. The proposal would therefore accord with Policy NBE9 of the HLP and Saved Policy CON8 of the HLP. These require, amongst other things, development to sympathetically incorporate trees, and for affected trees of significant amenity value to be capable of being retained in the longer term.

Mix of Dwelling Types and Sizes

32. Policy H1 of the HLP states, amongst other things, that proposals for new homes will be supported where they provide an appropriate mix of dwelling types and sizes having regard to the most up to date evidence on housing need, and the size, location and characteristics of the site and its surroundings. The supporting text to the policy refers to the Strategic Housing Market Assessment (SHMA) for Hart, Rushmoor and Surrey Heath (2016), which confirms that across the housing market area a mix of property sizes will be required to comprise 7% one-bedroom, 28% two-bedroom, 44% three-bedroom, and 21% four-bedroom dwellings. I have not been referred to more up to date evidence on housing need.
33. As a small-scale proposal comprising a net increase of 3 dwellings, it would be difficult to incorporate a mix of dwelling types and sizes to accurately reflect the SHMA. A variety of housing sizes for a scheme comprising 4 dwellings at the appeal site, with its specific shape, size and surroundings would be an odd, uncharacteristic addition to the street. The SHMA indicates that three-bedroom dwellings are the most in-demand housing size, and the proposal would make a modest contribution towards meeting that demand.
34. The provision of a two-bedroom dwelling and a four-bedroom dwelling in place of 2 of the proposed three-bedroom dwellings would more accurately reflect the mix of property sizes specified in the supporting text to Policy H1. However, the size, location and characteristics of the appeal site and its surroundings indicate that any benefits that may result from the proposal more accurately reflecting housing need figures would be negligible in this particular

instance. On balance, the proposal would therefore provide an appropriate mix of dwelling types and sizes having regard to the considerations set out in the first criterion of Policy H1, as a whole.

35. The appellant did not provide an explanation of the proposed mix of new homes as part of the planning application, but this has been provided as part of their appeal submissions. The proposal would therefore accord with Policy H1 of the HLP, the requirements of which are set out above.

Conclusion

36. The proposal would not harm the character and appearance of the area or trees, and it would provide an appropriate mix of dwelling types and sizes. However, it would be likely to have an adverse effect on the integrity of the SPA. It has not been demonstrated that appropriate mitigation measures have been secured to allow me to ascertain that the proposal would not adversely affect the integrity of the SPA. For the reasons set out above, I conclude that the appeal cannot succeed.

L Douglas

INSPECTOR