



Appeal Decisions

Site visit made on 14 December 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal A Ref: APP/R3650/W/22/3298903

151 Lower Weybourne Lane, Badshot Lea, Farnham GU9 9LL

- 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 Dr Sam Fry against the decision of Waverley Borough Council.
 - The application Ref WA/2021/02621, dated 5 August 2021, was refused by notice dated 1 April 2022.
 - The development proposed is the erection of a new dwelling.
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Appeal B Ref: APP/R3650/W/22/3300399

151 Lower Weybourne Lane, Badshot Lea, Farnham GU9 9LL

- 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 Dr Sam Fry against the decision of Waverley Borough Council.
 - The application Ref WA/2022/01124, dated 4 April 2022, was refused by notice dated 26 May 2022.
 - The development proposed is the erection of a new dwelling.
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Decision

Appeal A Ref: APP/R3650/W/22/3298903

1. The appeal is dismissed.

Appeal B Ref: APP/R3650/W/22/3300399

2. The appeal is dismissed.

Procedural Matters

3. For ease of reference, I refer to the different cases as Appeals A and B, as set out in the headers. I have dealt with each appeal on its individual merits but to avoid duplication I have considered the proposals together in this decision.
4. Both appeals propose a 1 bedroomed, two-storey dwelling attached to the side of the host dwelling, 151 Lower Weybourne Lane (No 151). The key difference being that the Appeal A proposal would be larger with the main entrance located to the front, whilst the main entrance would be in the side elevation in the Appeal B proposal. Both appeals would provide similar garden space and off road parking.

Background and Main Issues

5. It has been drawn to my attention that a previous appeal decision has been issued dismissing a proposal for the erection of a two-storey dwelling on the appeal site, reference APP/R3650/W/21/3266380 (Appeal 3266380). The

Appeal A proposal was submitted to the Council to overcome the issues drawn out in appeal 3266380. The Appeal B proposal was subsequently submitted to overcome the Council's reasons for refusing the Appeal A proposal.

6. Therefore, the main issues are whether the proposed development would:

- affect the character and appearance of the area;
- provide appropriate living conditions for future occupants in relation to internal space; and
- affect the Thames Basin Heath Special Protection Area (SPA).

Reasons

Character and appearance

7. The appeal site is within a predominantly residential area where most properties are two-storey and semi-detached or terraced. It is a piece of land to the side of No 151, which is part of a semi-detached pair, positioned on the corner of Lower Weybourne Lane and Lea Close. On the opposite side of the site is a row of terraces, understood to be Victorian. This part of Lower Weybourne Lane is characterised by such properties, whilst Lea Close is a more modern development of semi-detached dwellings. No 151 faces Lower Weybourne Lane, however, is more closely related to the properties on Lea Close in terms of age, style, design, and layout.
8. The difference in age and style between the host dwelling and the traditional terraced properties to the side, is further emphasised by No 151's setback position within the street scene and the space to the front and side of it. Consequently, the host dwelling reads as part of the Lea Close development both in character and appearance.
9. Both proposals in Appeal A and Appeal B would set the side elevation of the new dwelling approximately 1m away from the boundary with the adjacent terraced properties. This would visually reduce the space between the properties in question, blurring the distinction between the individual characters of both Lower Weybourne Lane and Lea Close. It would also create a disproportionately narrow frontage in comparison to No 151, its semi-detached pair and the other properties associated with Lea Close.
10. Although some of the terraces along Lower Weybourne Lane are similar in width to that proposed in Appeal A and Appeal B, they have a cadence and regularity which instructs the overall character of the street scene. The appeal site and No 151 are not part of that pattern, and the proposal would also not replicate it due to the set back position from the road and the lack of regularity in width between it and the host semi-detached pair. The width of the proposed dwellings in both Appeals A and B would not therefore be in keeping with either the properties on Lea Close, or successfully integrate with the street scene of Lower Weybourne Lane.
11. A specific element of the Appeal A proposal is the porch. Although attached to No 151's porch, the proposed porch would be of a different style and form with a pitched rather than flat roof. This would further draw attention to the incongruity of its design and would harm the overall appearance of the host semi-detached pair and that proposed.

12. The Appeal B proposal would imitate a previously approved extension¹ and would include a simplified front elevation, a lower roof ridge height and a stepped back position both to the front and rear. This would, therefore, visually reflect a more common form of development within the local area, a subservient side extension.
13. Notwithstanding the above, the proposed side location of the main entrance, its restricted accessibility due to the 1m wide access path adjacent to the boundary fence, and its limited visibility from the road due to the forward position of the adjacent terrace would create a poorly identifiable entrance. This lack of clear and defined main entrance emphasises the poor legibility of the Appeal B proposed layout. This would be at odds to the visually identifiable nature of individual dwellings within the street scene characteristic of both Lower Weybourne Lane and Lea Close, as the proposal would look like a side extension and not a separate dwelling.
14. There are examples of properties in the area where main entrances are located on the sides of dwellings, however in general they are clearly identifiable from the street and are not located down disproportionately narrow and somewhat enclosed access paths.
15. The Council considered that the subdivision of the host dwelling's front and rear gardens as well as the inclusion of a parking turntable to the front would detrimentally impact the character of the area. However, neither the Appeal A or Appeal B proposal proposes to subdivide the front area, and this openness could be retained by condition. Furthermore, this area is already used for parking and so the formalisation of parking would not visually alter the street scene and as the proposed turntable would be at ground level it would also not be visible.
16. The proposed rear garden subdivision would not be visible due to the position of an existing garage block at the rear of No 151's garden. It would not, therefore, visually harm the appearance of the area. The proposed gardens' sizes would also be comparable to some of the smaller existing gardens in the area. Consequently, I find that the subdivision of the appeal site from No 151 or the associated changes to the front and rear gardens do not contribute to the harm to the character and appearance of the area that I have otherwise identified with respect to both the Appeal A and Appeal B proposals.
17. The appellant has drawn my attention to the approved dwelling 5a Lea Close (appeal APP/R3650/A/2014583), a permission for a new dwelling at 8 Lea Close (permission WA/2014/0738), and the replacement of a dwelling at 6 Lower Weybourne Lane (permission WA/2017/1961). Nos 5a and 8 were approved under previous versions of the development plan. Nevertheless, No 5a is a similar width to the properties it is attached too, has a forward facing main entrance and more space between it and the side boundary. Whilst the permission at No 8 has expired, the dwelling has not been built and there is nothing before me confirming it would achieve permission under the current development plan. No 6, although approved under the current development plan, is located a distance from the appeal site where the character of the road is substantially different to the area around the appeal property. Therefore, I do not find these examples comparable to that which is before me.

¹ Planning permission reference WA/2019/2043

18. Having regard to all the above, I find that both the Appeal A and Appeal B proposals would significantly harm the character and appearance of the area for the reasons previously set out. As such the proposals would not comply with Policy TD1 of the Waverley Local Plan Part 1 (LP), retained Policies D1 and D4 of the Waverley Local Plan 2002, and Policy FNP1 of the Farnham Neighbourhood Plan (FNP) insofar as the policies when taken together and amongst other things, seek new development to be of a high quality and inclusive design that responds to the distinctive local character of the area in which it is located, complements its surroundings and avoids harm to visual character and distinctiveness.
19. The Council has also referred to FNP Policy FNP16 and the Residential Extensions Supplementary Planning Document, both of which deal with householder extensions and not new dwellings so are not relevant to this issue.

Living conditions

20. It is noted that the Appeal A proposal is considered by the Council to provide adequate living conditions for future occupants and there is nothing before me to conclude otherwise.
21. However, in a bid to overcome the character and appearance issues the Council had identified, the proposed dwelling of Appeal B is smaller than that of Appeal A. The Council have calculated the overall useable floor space as 35.92m², that this proposal would provide a 1 bedroomed, two-storey dwelling for 2 people, and that the minimum required floor space as set out in the National Technical Standards (NTS), has not been met. The appellant does not dispute these points but does not consider the use of the NTS as appropriate.
22. LP Policy TD1 requires new development to maximise the opportunity to improve future residents quality of life, health, and well-being with specific regard to appropriate internal space standards for new dwellings. There are no specific space standards referred to within Policy TD1, but within the Council's Space Standards Topic Paper (TP), submitted by the appellant, it is clear the NTS has been used for some years as the basis for such assessment by the Council.
23. The appellant has drawn my attention to 2 developments assessed within the TP which fail to meet the NTS. Notwithstanding that suboptimal provision elsewhere is not a justification for the continuation of such practices, the land at Quinnettes, Eddystone Court was a conversion into a 1 bedroom 1 storey dwelling for 1 person; and the land at Bradford House, St Georges Road, provided a 1 bedroomed, two-storey dwelling for 1 person with more floor space than the Appeal B proposal. Neither example is therefore comparable with that which is before me.
24. The NTS provides a minimum requirement and is commonly used as a starting point when considering internal space standards. To that effect its use in this instance is appropriate. The associated National Planning Policy Guidance² confirms that local planning authorities (in this case the Council) need to determine whether there is a need to implement the use of the NTS. The TP has found there is a widespread failing to provide dwellings of an adequate size

²Housing: optional technical standards - Paragraph: 002 Reference ID: 56-002-20160519 Revision date: 19 05 2016

in the borough and so has shown a need to implement the use of the NTS. LP Policy TD1 allows for appropriate internal space standards to be used when considering new dwellings. Accordingly, I find the use of the NTS to assess internal space standards is acceptable and would not conflict with Paragraph 130 or footnote 49 of the National Planning Policy Framework (the Framework).

25. Consequently, I conclude that the Appeal B proposal would fail to provide adequate internal space which would lead to inappropriate living conditions for future occupants, in conflict with LP Policy TD1 and Paragraph 130 of the Framework, insofar as they seek to ensure high standards accommodation for future occupants.

SPA

26. The appeal site falls within the 5km buffer zone of the SPA, a protected habitats site. Both proposals would create a new dwelling, and so there could be recreational impact on the SPA from the additional occupants. The Council have stated that this impact would be alleviated by its own scheme of Suitable Alternative Nature Green Spaces (SANGs), and Strategic Access Management and Monitoring (SAMM) of the SPA. It confirms that a financial contribution towards the SANG at Farnham Park would mitigate the additional recreational impact and could be secured by a section 106 legal agreement.
27. In reviewing these proposals at application stage, Natural England has confirmed such mitigation acceptable. The Appellant does not disagree with the position and has subsequently submitted a unilateral agreement for each appeal which would secure the necessary financial contribution.
28. Consequently, based on the evidence before me, I am satisfied that such contributions would be necessary to make the development acceptable in planning terms; directly relate to the development; and are fairly and reasonably related in scale and kind to the development. It follows that I consider that the effects of the proposals in Appeal A and Appeal B on the SPA would be sufficiently mitigated by the planning obligations so that no harm to its integrity would result if planning permission were to be granted
29. In conclusion, therefore, both the Appeal A and Appeal B proposals would be able to appropriately mitigate any potential effect on the SPA in compliance with Regulation 62 of the Conservation of Habitats and Species Regulations 2010 (as amended), LP Policies NE1 and NE2, FNP Policy FNP12, and Paragraphs 179 and 180 of the Framework, insofar as they seek to protect habitats and ecology.

Other Matters

30. It is noted that there are policies in the development plan which potentially support the provision of smaller dwellings, including FNP Policy FNP15. Both proposals provide a 1 bedroom dwelling, however Policy FNP15 also requires that the new dwellings would fit within the character of the area, and I have found harm in relation to this for both proposals. The lack of a development plan policy discouraging infill development within Badshot Lea does not negate the harm identified.

Planning Balance

31. The Council cannot demonstrate a 5 year housing land supply, confirming the current housing land supply is 4.3 years. As such paragraph 11(d) of the Framework is engaged and so the development plan policies most important for determining the application are out of date, namely LP Policy TD1. As the proposals would be capable of not having a harmful effect on the SPA, it is necessary to assess whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.
32. In both appeals 1 new dwelling would be provided on brownfield land in a sustainable location, reasonably quickly due to its modest scale. I have considered that the Framework seeks to boost significantly the supply of housing and recognises the importance of small sites in meeting the housing requirement of the area. The proposal would also have associated economic and social benefits, including the use of local companies during construction and future occupants use of the facilities of Farnham. Nevertheless, for both appeals these benefits would attract limited weight based on the very small contribution 1 dwelling would make to the Council's 5YHLS. Limited weight is also attached to the appellant's comments relating to the borough's constrained nature for locating residential development for the same reason.
33. Very limited weight is attached to the potential need of younger families and older adults for 1 bedroom houses. This is because it is only supported by reference to the text within the FNP. The FNP was adopted in 2017 and so I cannot be certain it is reflective of the current housing need nor does it consider any proceeding development or changes in demand since its adoption.
34. No weight can be attached to the lack of harm the proposals would have on the SPA, as by definition, a lack of harm is neutral so cannot weigh for or against the proposals.
35. I have, nevertheless, found significant harm in relation to character and appearance for both the Appeal A and Appeal B proposals, and for Appeal B I have also found significant harm in relation to the living conditions of future occupants. Both proposals would therefore conflict with the Framework, insofar as it seeks to achieve well designed places, and in these circumstances, I find that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

Conclusion

36. For the reasons given above, both proposals would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, that would indicate a decision otherwise. Appeal A and Appeal B are, therefore, dismissed.

RJ Redford

INSPECTOR