



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: 26 January 2023

Appeal Ref: APP/N1730/W/21/3286799

The Bourne, Redlands Lane, Crondall, Farnham GU10 5RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Dr and Mrs Adrian Williams against Hart District Council.
 - The application Ref 21/01893/FUL, is dated 13 July 2021.
 - The development proposed is the erection of a three bedroom house with car port.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a three bedroom house with car port at The Bourne, Redlands Lane, Crondall, Farnham GU10 5RF in accordance with the terms of the application, Ref 21/01893/FUL, dated 13 July 2021, subject to the attached Schedule of Conditions.

Application for costs

2. An application for costs was made by the appellant against Hart District Council. That application is the subject of a separate Decision.

Preliminary Matters

3. The appeal has been made following the Council's failure to issue a decision within the relevant period. The Council's appeal submissions confirm that had it issued a decision, it would have granted planning permission subject to conditions. I have had regard to these submissions when determining the appeal.
4. The appellant has submitted an alternative proposed layout plan as part of the appeal, which shows the proposed dwelling orientated with its front elevation facing to the north. This did not form part of the application initially considered by the Council, on which interested parties' views were sought. Those interested parties would be deprived the opportunity of consultation on the material changes to the proposal if I consider the alternative proposed layout as part of the appeal. I have not therefore taken the alternative proposed layout plan into account and have determined the appeal based on the plans initially submitted to the Council, which show the proposed dwelling would be orientated with its front elevation facing to the north-west.
5. I have been referred to a previous appeal decision¹ by a different Inspector concerning what the appellant has described as the same proposal at the

¹ Appeal Ref: APP/N1730/W/20/3264254

appeal site. I note the Council disagrees with the findings of the previous Inspector. I am not aware of the full circumstances and evidence which led the previous Inspector to reach their decision, as these have not been submitted as part of this appeal. While I have had regard to the previous appeal decision, I have considered this appeal based on the information before me.

Main Issues

6. I consider the main issues are:

- Whether the proposed development would be acceptable in principle, with particular regard to the location of the appeal site; and
- The effect of the proposed development on the integrity of the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Whether Acceptable in Principle

7. The appeal site is located on land identified as being outside the settlement boundary of the village of Crondall, as defined by the Hart Local Plan (Strategy and Sites) 2032 (2020) (HLP). Policy NBE1 of the HLP refers to land outside settlement policy boundaries as the countryside, where development proposals will only be supported if various criteria apply. The proposal would not accord with any of those criteria.
8. The supporting text to Policy NBE1 explains that the countryside can be in a variety of uses including agriculture, employment, recreation, leisure, and contains different landscapes, ecological habitats, and economic opportunities for rural communities. It also refers to the importance of recognising the intrinsic character and beauty of the countryside, which is therefore subject to a more restrictive policy approach than development within the defined settlement boundaries.
9. Despite being located on land which the HLP refers to as countryside, the appeal site is closely surrounded by built development. The appeal site and its immediate surroundings do not display the intrinsic character and beauty generally associated with the countryside, or other significant characteristics typical for a countryside location. Furthermore, they do not appear to be in use for agriculture, employment, recreation, leisure, contain different landscapes, ecological habitats, or economic opportunities for rural communities.
10. Visually, the appeal site is not located within the open countryside. In the context of adjacent development, which includes recent housing built on higher land levels immediately to the east of the appeal site, the character of the appeal site and its immediate surroundings are more suburban in appearance. Local circumstances have evidently changed considerably since the appeal site was defined as being outside the settlement boundary of Crondall.
11. The proposal would be typical of the character and appearance of the area and would not harm the qualities of wider countryside surroundings beyond neighbouring development. The appeal site is of commensurate size to neighbouring residential plots and is experienced as being within the built-up area of Crondall, rather than on the edge of or outside the village. Therefore,

although the proposal would fail to accord with Policy NBE1 of the HLP, it would not conflict with the aims of that policy, set out above.

The SPA

12. 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 amended) (the Habitats Regulations). This is on account of the habitat it provides for the internationally important bird species of Woodlark, Nightjar and Dartford Warbler. The conservation objectives of the SPA are to maintain and restore the habitats of those protected bird species. These ground nesting birds are particularly vulnerable to predation and disturbance, which can result from walkers and domestic pets.
13. The appeal site is located over 400 metres away from the SPA, but it is within a 5 kilometre zone of influence (ZoI) of the SPA. Within the ZoI, 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.
14. Natural England was consulted on the application and has confirmed that it raises no objection to the proposal, provided the appellant complies with the development plan's policy requirements for the SPA². Policy NRM6 of the partially revoked South East Plan (2009) (SEP) and Policy NBE3 of the HLP outline 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 ZoI of the SPA 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) contributions and the provision and maintenance of Suitable Alternative Natural Greenspace (SANG), amongst other things.
15. I have been provided with confirmation³ that the appellant has secured 0.02 hectares of SANG at Frost Folly⁴. The Council's appeal submissions confirm that the appeal site is within the catchment area of the SANG and the amount of SANG secured would be commensurate for the single dwelling proposed. I have also been provided with a copy of a legal agreement⁵ entered into by the Council and the appellant under the provisions of section 106 of the Act which confirms the requisite amount of SANG has been secured and formally requires that land to be laid out and made publicly available prior to the occupation of the proposed development. Land at Frost Folly benefits from planning permission to be laid out and managed as publicly accessible SANG and it already provides an area of public open space.
16. The legal agreement formally secures a SAMM contribution of £836.80 to be paid prior to the occupation of the proposed development. This level of contribution accords with Natural England's Thames Basin Heaths Strategic Access Management and Monitoring Project Tariff Guidance (2010). The SAMM contribution will help fund promotion of the use of SANG as an alternative to

² Email dated 24 August 2021 from Natural England to the Council, ref: 363026

³ Letter dated 23 September 2021 from Redrow Homes Ltd to Hart District Council, Ref: NR/SJS/H7(Y)

⁴ Frost Folly, Moss End Farm, Moss End, Warfield, Bracknell RG42 6EJ

⁵ Dated 8 October 2021

the SPA, the provision of wardens within the SPA, a SPA education programme, and monitoring of visitors and bird populations within the SPA, to be co-ordinated by Natural England.

17. I am therefore satisfied that the SANG and SAMM contribution have been appropriately secured and are likely to persuade potential visitors away from the SPA. They would be sufficient and necessary to ensure the proposal would not adversely affect the integrity of the SPA and its relevant features. Natural England was consulted as part of the appeal process and has confirmed⁶ that it holds the same view.
18. The proposal, including the mitigation measures set out above, would not conflict with the Habitats Regulations, Policy NRM6 of the SEP, or Policy NBE3 of the HLP. It would also be capable of according with Policy NBE4 of the HLP which requires development to conserve and enhance biodiversity by avoiding adverse effects on the integrity of the SPA and by providing a biodiversity net gain where possible, amongst other things.

Planning Balance

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material planning considerations indicate otherwise. I have found conflict with Policy NBE1 of the HLP, but it is clear that circumstances relating to the appeal site have changed since it was designated as countryside outside of the settlement boundary. Taking the specific nature of the appeal site into account, including its size and position, entirely surrounded by built development, the stated aims of Policy NBE1 indicate that planning permission should not be withheld in this particular instance.

Other Matters

20. I have seen comments from neighbouring residents objecting to the proposal, alleging that additional housing would not be sympathetic to the village and would result in additional traffic. I have explained above that the proposal would be appropriate for its context, as it is closely surrounded by similar development. I do not consider a net increase of one dwelling in this location would be likely to result in any material harm to highway safety and no evidence has been provided to suggest the existing highway network would be incapable of accommodating the likely number of vehicle movements associated with the proposal.

Conditions

21. It would be necessary and reasonable to attach a condition requiring the proposed development to be carried out within the relevant timeframe, and in accordance with the approved plans in the interests of clarity. It would also be reasonable and necessary to control the hours during which development would be carried out and materials delivered to the appeal site, to protect the living conditions of neighbouring residents.
22. The proposed plans specify the external materials proposed. However, insufficient details have been provided to show the colours and types of finishes proposed. It would therefore be reasonable and necessary to require further

⁶ Email dated 10 January 2023 from the Sustainable Development Lead Advisor, Thames Solent Area Team

details of those materials prior to the commencement of development above slab level.

23. The appellant has referred to a proposed rainwater harvesting system and a backup option of smart water butts and use of an existing rainwater pipe leading to the River Hart, but full details in these regards have not been provided as part of the appeal. Policy NBE5 of the HLP requires development to not increase the risk of flooding elsewhere and to be safe from flooding. The Council has advised that the area is prone to causal flooding. It would therefore be reasonable and necessary to require details of how surface water drainage will be dealt with, commensurate to the size of the proposed development, prior to the commencement of development. This would need to include details of proposed hard surfacing to ensure appropriate rainwater percolation could be achieved.
24. As set out above, Policy NBE4 of the HLP requires development to conserve and enhance biodiversity by providing a net gain where possible, amongst other things. No details of how biodiversity could be conserved or enhanced by the proposal have been provided, but it appears likely that a biodiversity net gain could be achieved.
25. The Council has suggested that details should be approved prior to the commencement of development which ascertain the on-site biodiversity value of the site and show how a 10% biodiversity net gain would be achieved. That would be excessive and therefore unreasonable in this instance, considering the scale of the proposal and the limited size of the appeal site, which is an area of partially hard surfaced residential land between other developments. It would, however, be reasonable to require details of how a biodiversity net gain would be achieved prior to the occupation of the proposal. Those details would need to be approved prior to the commencement of development to ensure the current state of the appeal site is taken into account.
26. It would be reasonable and necessary to require the approval of details of soft landscaping to ensure the proposal would blend appropriately with its surroundings. The proposed plans show 4 parking spaces and a large driveway would be within the appeal site. These should be provided prior to the occupation of the proposal and kept available for those purposes in the interests of highway safety.
27. Paragraph 54 of the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Council has suggested that the potential future enlargement of the proposed dwelling otherwise permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) should be prohibited to ensure the proposal has a satisfactory appearance in the countryside, to avoid the overdevelopment/urbanisation of the site, and to satisfy the development plan.
28. Visually, the appeal site is not in the countryside. The appeal site is a large plot, and the proposed dwelling would be sited centrally within it. There may well be some enlargements which could be made to the proposed dwelling in the future in accordance with the provisions of the GPDO which would fail to accord with the development plan, or which may urbanise the appeal site further. However, there are also likely to be some enlargements which would

not. No clear justification has been provided for all forms of enlargement permitted by Classes A, AA, B, C, D and E, Part 1 of Schedule 2 of the GPDO to be prohibited. Taking paragraph 54 of the Framework into account, such a condition would be unreasonable in this instance.

Conclusion

29. For the reasons outlined above, I conclude that the appeal should be allowed.

L Douglas

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan titled 'The Bourne', Drawing 2 titled 'Proposed new house at The Bourne, Crondall' including site and ground floor plan, first floor plan, elevations and car port elevations.
- 3) Development works and delivery of materials shall take place only between 0730 and 1800 on Mondays to Fridays and between 0800 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) No development shall commence until details of how the development will enhance biodiversity, including a schedule for their implementation, have been submitted to and approved in writing by the local planning authority. The approved biodiversity enhancements shall thereafter be implemented in full prior to the first occupation of the dwelling hereby permitted.
- 5) No development above slab level shall commence until details of soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include the nature, numbers, locations, supplied size, and stocking density of proposed plant species. The approved soft landscape works shall thereafter be implemented in full prior to the first occupation of the dwelling hereby permitted. Any planting forming part of the approved soft landscaping works which are removed, die, or become seriously damaged during a period of 5 years following the first occupation of the dwelling hereby permitted shall be replaced before the end of the following planting season, with planting of matching size, species, number and positions.
- 6) Notwithstanding the approved details, no development above slab level shall commence until details of external materials have been submitted to, and approved in writing by, the local planning authority. The details shall include exterior elevation and roof materials, windows, doors and rooflights, rainwater goods, timber framing and solar panels. The development shall take place in accordance with the approved details.
- 7) The dwelling hereby permitted shall not be first occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, which shall include details of all hard surfacing. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- provide information about the design, storm period and intensity, the method employed to delay and control the surface water discharged from the site;
 - include a timetable for its implementation; and,
 - provide a management and maintenance plan which secures the operation of the scheme throughout the lifetime of the development.
- 8) The dwelling hereby permitted shall not be first occupied until space has been laid out within the site in accordance with the approved plan Drawing 2 titled 'Proposed new house at The Bourne, Crondall' for 4 cars to be parked and that space shall thereafter be kept available at all times for the parking of cars.