



Appeal Decision

Site visit made on 20 February 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 MAY 2023

Appeal Ref: APP/R3650/W/22/3301731

Ardene, No. 41 Dene Lane, Lower Bourne, Farnham GU10 3RJ

- 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 Mr James Yearsley against the decision of Waverley Borough Council.
 - The application Ref WA/2021/02458, dated 16 July 2021, was refused by notice dated 27 January 2022.
 - The development proposed is described as the 'Erection of single detached residential dwelling with double garage following demolition of existing garage.'
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Decision

1. The appeal is allowed and planning permission is granted for the erection of single detached residential dwelling with double garage following demolition of existing garage at Ardene, No 41 Dene Lane, Lower Bourne, Farnham GU10 3RJ in accordance with the terms of the application, Ref WA/2021/02458, dated 16 July 2021, and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. The Council's third reason for refusal related to a lack of information submitted with regards to possible impact upon protected species. An Ecological Impact Assessment¹ has been submitted with the appeal. A number of surveys were carried out on site and the assessment sets out a baseline for ecological conditions on site.
3. The garage building which is proposed to be demolished was originally assessed as having high suitability to support bats, however, no bat roosts were recorded emerging from the building during the three dusk emergence surveys.
4. The Council are satisfied that, subject to mitigation and enhancement measures being secured, it has been demonstrated that there would not be any harm to protected species. As such, the Council are not pursuing reason for refusal 3.
5. Similarly, the fifth reason for refusal related to a lack of information regarding flooding. The Appellant has provided a detailed level survey of the site showing the significant level changes, which shows the site of the proposed dwelling is

¹ Ecological Impact Assessment Ardene, Farnham, by James Yearsley. Reference: SE21-171 Version: V.01, 19 June 2022

not in a position at risk of flooding. An emergency plan² has also been submitted with details of flood resilient measures set out within the appeal statement. The Council are satisfied these details demonstrate that safe access and egress in a 1 in 100-year flood event would be provided to the proposed dwelling and as such, are also not pursuing reason for refusal 5.

6. Finally, the appellant also submitted a 'backland development' drawing with the appeal, illustrating development located in the area. The additional submitted information does not include any alterations to the nature of the proposed scheme and therefore I am satisfied that interested parties would not be prejudiced by my considering this information. I note that an interested party has commented on the contents of the backland development drawing and Ecological Impact Assessment, and I address this below.
7. During the course of the appeal further information was sought in respect of the Thames Basin Heaths Special Protection Area (SPA). In this regard the appellant submitted a Unilateral Undertaking. This is considered later in this decision.

Main Issues

8. The main issues in this case are:

- the effect of the proposed development on the character and appearance of the surrounding area;
- whether the proposal would provide acceptable living conditions for future occupiers, with respect to light; and
- the effect of the development on the Thames Basin Heaths SPA.

Reasons

Character and Appearance

9. The application site comprises part of the substantial rear garden area of a large semi-detached property located off Dene Lane. The wider area is characterised by low density development on large spacious plots. There is some variety in dwelling size and position, with some single storey dwellings fronting the lane and some larger dwellings set back considerably from the road. However, the overall spaciousness and mature landscaping contribute to the semi-rural character of the area, indeed the site is located within the South Farnham Arcadian Area, as designated by Policy FNP8 of the Farnham Neighbourhood Plan (2017) (and subsequent 2019 review) (NP). This policy describes the area as having an informal, rural character.
10. Whilst traditional in form the dwellings nearby are varied in terms of architecture. In this context the Council have not raised any issue with the design of the property, nor the materials proposed, and from what I have seen, I have no reason to disagree with this. The proposed dwelling would utilise an existing access and would be sited significantly back from the lane. There are examples of other dwellings with a similar 'backland' position nearby, including some accessed off Dene Lane and within the wider area there are examples of dwellings with a similar plot size. Whilst the planning history of these dwellings

² Flood Emergency Plan – Residential development at Ardene, 41 Dene Lane, Lower Bourne, Farnham, GU10 3RJ. April 2022

are not evident, they contribute to the pattern of development and character of the wider area.

11. There would remain a generous separation distance to nearby dwellings and, subject to appropriate protection measures secured through a condition, there would be no significant impact on the surrounding trees. The proposed dwelling would sit comfortably within its own sizable plot and would not appear cramped nor compromise or erode the general informal, spacious and verdant character of the surroundings.
12. Reference is made by a third party to views of the appeal site from the nearby Area of Outstanding Natural Beauty, Green Belt and Area of Great Landscape Value. There is little information before me regarding these designations. The proposed property and garage may be glimpsed through the trees from medium or distant views afforded from footpaths or bridleways. However, given its limited impact upon the character and appearance of the surroundings, the development would also not harm views from, or the setting of these designated sites.
13. A third party has also questioned the accuracy of a backland development drawing submitted with the appeal. I have based my decision on everything that has been submitted and from what I observed on my site visit. Any inaccuracy on this particular drawing does not alter my conclusions on this main issue.
14. I therefore conclude that the proposed development would not harm the character and appearance of the surrounding area. As such, the proposal complies with Policies TD1 of the Waverley Borough Local Plan Part 1 2018 (LP), NP Policies FNP1 and FNP8 and saved Policies D1 and D4 of the Local Plan 2002, (SLP) which collectively require development to be of a high quality that responds to the informal rural character of the South Farnham Arcadian Area.

Living Conditions

15. Given the verdant surroundings, the proposed dwelling would be surrounded by woodland on three sides. However, the main ground floor living space, made up of the sitting/dining room, kitchen and family rooms, would be served by large windows on two elevations. There would remain sufficient space to the front and rear, in addition to the south side, to allow enough light to reach these windows. As such, the rooms these windows serve would be provided with an acceptable level of light, and acceptable living conditions would therefore be provided.
16. The space to the front and rear would also be sufficient to provide sufficient light to the first floor bedrooms. The verdant surroundings are a feature of the locality and given the space around the dwelling, I do not consider that there would be an increasing future pressure for works to be undertaken to the nearby trees for reasons of safety or nuisance, or where the living environment becomes unduly gloomy.
17. In light of the above, I find no conflict with the high quality design and well-being of future residents goals of LP Policy TD1, NP Policy FNP1 and SLP Policy D4.

18. SLP Policy D1 is also referenced by the Council, however as this relates to the environmental implications of development, it is not determinative for this main reason.

Special Protection Area

19. The appeal site is located within 5km of the Thames Basin Heaths SPA. The SPA comprises an area of lowland heath and woodland supporting a characteristic landscape and distinctive flora and fauna under threat and in decline. It is designated because of the presence of breeding populations of certain birds. These birds nest on or near the ground and as a result they are very susceptible to predation and to disturbance from informal recreational use, especially walking and dog walking.
20. Potential adverse effects on the SPA from new residential development, such as that proposed, include recreational pressure and disturbance, including from ramblers, dogs and cats. Such matters are likely to have an adverse effect upon the integrity of the SPA. As such it is necessary to carry out an appropriate assessment (AA) as part of my decision.
21. As part of the AA it is necessary to consider whether any potential effects could be addressed through specific measures. The appellant and the Council have agreed that financial contributions towards the ongoing maintenance and enhancement of Suitable Alternative Natural Greenspace (SANG) at Farnham Park and the provision of Strategic Alternative Access Management and Monitoring (SAMM) would be in line with Council's strategy for the Thames Basin Heaths SPA contained within the Thames Basin Heaths Special Protection Area Avoidance Strategy July 2016. As part of the consideration of the development proposal Natural England confirmed that it had no objection subject to securing mitigation measures in accordance with the above strategy.
22. The SANG contribution would offset any impact of future occupiers of the new dwelling travelling to the SPA for recreation purposes, in addition to the provision of suitable alternative natural greenspace to divert and manage recreational pressure on the SPA. Moreover, the SAMM element would assist with measures to better manage and monitor visitors to the SPA. I am therefore satisfied that the mitigation measures would be effective.
23. The submitted S106 secures the mitigation set out above. Based on the forgoing, I am able to ascertain, as the competent authority undertaking the AA, that whilst the integrity of the SPA would be affected by the development, this could be overcome with the proposed mitigation. Therefore, it would accord with LP Policies NE1 and NE3, and NP Policies FNP12 and FNP13, which collectively aim to protect and enhance biodiversity, and require that adequate measures are put in place to avoid or mitigate any potential adverse effects on the SPA.

Other Matters

24. Notwithstanding that the Council are not pursuing reason for refusal 3 relating to ecological issues, a letter from an interested party refers to records of newts and reptiles, amongst other species, having been identified on land adjoining the appeal site, in the wider area and by previous owners on the appeal site.
25. Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be

likely to result in harm to the species or its habitat. It goes on to say that it “... *is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision*”.

26. The submitted Ecological Impact Assessment has set out that no protected species were found on site. I note that questions are raised by the third party regarding the distance to priority habitats, waterbodies and the cumulative impact of nearby development, however, the assessment was carried out by a suitably qualified ecologist, and it is noteworthy that the Surrey Wildlife Trust found no issue with the methodology and conclusions. Notwithstanding this, I observed that the nearest pond within the appellant’s garden appeared to be covered and not ideally suitable as a habitat.
27. Therefore, on the balance of evidence, including what I observed on site, I consider it unlikely that protected species may be affected by the proposed development. This is subject to conditions (as set out below) ensuring the mitigation and long-term management of habitats, species and other biodiversity features. I therefore find no conflict with the biodiversity protection and enhancement goals of LP Policy NE1 and the National Planning Policy Framework (the Framework), which states that planning decisions should protect and enhance sites of biodiversity value.
28. The third party comments also make reference to the heritage value of the host property and its grounds. This is not substantiated, and the Council do not make any reference to this. In any case, I find that the proposed dwelling, given its position and separation distance from the host dwelling, would not harm its character and appearance.
29. The additional impact of one new dwelling on Dene Lane in terms of access or wear would not be significant. Any issues caused by construction traffic would be temporary. Whilst the proposed dwelling would be sited on an elevated position, given the remaining garden size and number of surrounding trees, I am satisfied that run off water directly caused by the development would also not be significant.
30. The third party comments also makes reference to flooding. Based on the evidence submitted, I am satisfied that safe access and egress would be provided to the dwelling. Finally, the lack of harm with regards to character and appearance would not necessarily be replicated elsewhere, particularly given the use of an existing access and size of the host property garden, and therefore, this scheme does not in my view set a harmful precedent for development elsewhere in the vicinity.

Conditions

31. A list of suggested conditions has been provided and I have considered these in light of the Planning Practice Guidance (PPG) and the tests set out in the Framework. For clarity and to ensure compliance with the tests, I have amended some of the suggested wording.
32. In addition to the standard time limit condition (condition No 1), and those stated above, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty

- (2). Conditions ensuring that the external finish of the dwelling (3) is as set out in the Design and Access Statement is necessary in order to ensure an appropriate high quality finish.
33. A condition to secure the parking and turning spaces (4) are secured is appropriate in order to ensure that occupants would have appropriate access to these facilities. A condition to control any external lighting (5) is necessary and appropriate to control its impact on biodiversity. On wider sustainability requirements, a condition requiring the installation of electric vehicle charging sockets is necessary (6) to ensure relevant compliance with technical standards and policies sought by the LP.
34. A condition to secure the flood resilient measures as set out in the submitted emergency details is appropriate (7).
35. A Construction Environmental Management Plan (8) will ensure that the construction process would suitably protect trees and biodiversity features and minimise the impact of the construction period on the amenities of local residents. As set out above, in order to ensure the long-term management of habitats, species and other biodiversity features, a condition securing a Landscape and Ecological Management Plan is appropriate (9). I have amended this condition to remove the requirement for a legal mechanism, as this would be contrary to guidance in the PPG. These two conditions are required to be pre-commencement to ensure that all details are appropriate, finalised and secured prior to development starting on site.
36. The Council recommend a condition removing permitted development rights. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The PPG advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. In this case I find that the Council has not provided clear justification that the exercise of such rights would be harmful to the character and appearance of the area or the living conditions of nearby occupiers. As such I find that such a condition is not reasonable in this case

Conclusion

37. There are no material considerations that indicate the development should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

B Phillips

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: 0003 P01 - Block Plan, 0201 P01 - Proposed Ground Floor Plan, 0202 P01 - Proposed First Floor Plan, 0401 P01 - Proposed Elevations, 0140 P01 - Proposed Site Sections, 0302 P01 - Proposed Garage Details, 0203 P01 - Proposed Roof Plan.
3. The external surfaces of the development shall be constructed in those materials set out in Section 3 of the Design and Access Statement P2104-MMK-4500_P01 (dated July 2021).
4. Prior to the first occupation of the development, the parking and turning spaces shown on the approved plans shall be made available and thereafter kept available for that use.
5. Prior to the first occupation of the dwelling hereby approved, a lighting scheme setting out the location, type, and illumination levels of external lighting shall be submitted to and approved in writing by the local planning authority and installed on the site in strict accordance with the approved details and retained as such.
6. Prior to the first occupation of the dwelling hereby approved, the dwelling shall be provided with a fast-charge Electric Vehicle charging point (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the local planning authority and thereafter retained and maintained.
7. Prior to the first occupation of the dwelling hereby approved, the flood warning and flood resilient measures and the emergency plan shall be implemented in accordance with the details in 'Flood Emergency Plan – Residential development at Ardene, 41 Dene Lane, Lower Bourne, Farnham, GU10 3RJ, April 2022' and 5.86 – 5.89 of the Planning Appeal Statement (dated June 2022) and shall thereafter be maintained.
8. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) that describes the measures outlined below shall be submitted to and approved in writing by the local planning authority.
 - a) storage of plant and materials, including demolition arisings
 - b) programme of works (including measures for traffic management)
 - c) cement mixing
 - d) detailed methodology of installing an appropriate temporary tree protection surface
 - e) Map showing the location of all of the ecological features
 - f) Risk assessment of the potentially damaging construction activities
 - g) Practical measures to avoid and reduce impacts during construction
 - h) Location and timing of works to avoid harm to biodiversity features
 - i) Responsible persons and lines of communication
 - j) Use of protected fences, exclusion barriers and warning signs.

The construction works shall be undertaken in accordance with this approved CEMP.

9. Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The LEMP shall include, but not be limited to the following:
- a) Description and evaluation of features to be managed
 - b) Ecological trends and constraints on site that might influence management
 - c) Aims and objectives of management
 - d) Appropriate management options for achieving aims and objectives
 - e) Prescriptions for management actions, together with a plan of management compartments
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period
 - g) Details of the body or organisation responsible for implementation of the plan
 - h) Ongoing monitoring and remedial measures
 - i) Monitoring strategy, including details of how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.
- The development shall be carried out in accordance with the approved details.