



Appeal Decision

Site visit made on 19 June 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2023

Appeal Ref: APP/D3640/W/22/3312602

1 Bain Avenue, Camberley GU15 2RR

- 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 Khatana against the decision of Surrey Heath Borough Council.
 - The application Ref 22/0882/FFU, dated 9 September 2022, was refused by notice dated 3 November 2022.
 - The development proposed is described as the 'erection of two storey three bed dwelling. Creation of new dropped kerb to Bain Avenue'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council no longer dispute reason for refusal 2 relating to the Thames Basin Special Protection Areas (SPA) due to payment towards Strategic Alternative Access Management and Monitoring (SAMM) being received. This is discussed further below.

Main Issues

3. The main issues in this case are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - the effect of the development on the Thames Basin Heaths SPA.

Reasons

Character and Appearance

4. The appeal site comprises the side garden of a two storey semi-detached property and is located on the corner of Bain Avenue and Old Pond Close. The wider surroundings are characterised by two storey semi-detached, terraced and maisonette properties, set back from the road. Whilst there is variety in building form, there is a consistent, spacious suburban character provided by the similar appearance of the dwellings, set back from the road and gaps between buildings.
5. The proposal would extend the semi-detached unit to create a terrace of three properties. Given the terraced properties nearby, this would not appear

incongruous. Moreover, I note that a similar attached two storey property has recently been approved¹ on this site, which remains extant.

6. The proposed attached dwelling would incorporate a pitched roof, pattern of windows and materials to match the existing building, secured through an appropriately worded condition. Whilst adding width, it would also result in a well-proportioned and balanced form that would sit comfortably with the existing character and appearance of the street scene. There would remain a clear gap to the side boundary, in addition to the grassed open area next to Old Pond Close. This would ensure the proposed dwelling would not appear cramped and would retain the existing spacious suburban character of the surroundings.
7. The sub-division of the plot would result in reduced and modest garden sizes. There are a range of garden sizes in the area, and I do not find that they would be out of keeping with the surrounding context.
8. I therefore conclude that the proposed properties would not harm the character and appearance of the surrounding area. The proposal would therefore comply with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2011 – 2028 (2012) (DMP) which, in accordance with the National Planning Policy Framework, requires development to promote high quality design and respect and enhance the character of the local environment. There is also no conflict with the high-quality design goals of the Supplementary Planning Documents 'Residential Design Guide' and 'Western Urban Area Character'.

Special Protection Area

9. 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.
10. 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. As part of the AA it is necessary to consider whether any potential effects could be addressed through specific measures.
11. The Thames Basin Heaths Special Protection Area Avoidance Strategy (AS) SPD (2012) identifies Suitable Alternative Natural Green Space (SANGS) within the Borough and advises that the impact of residential developments on the SPA can be mitigated by providing a financial contribution towards SANGS. The Council have confirmed that there is currently sufficient SANG available, and a financial contribution towards this would be payable through a Community Infrastructure Levy (CIL).

¹ Application reference 21/0801/FFU

12. The appellant and the Council have agreed that financial contributions towards the ongoing maintenance and enhancement of SANG and the provision of SAMM would be in line with Council's strategy for the Thames Basin Heaths SPA.
13. 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. Nonetheless, I must be certain that that payment would be justified and that it would transform into the requisite mitigation.
14. Whilst the Council have accepted payment of the required SAMM element, a payment of £830.16, there are no details before me of the arrangements for administering this payment for its intended purpose, and I have no measure before me to secure this or tie it to this planning application. I also have no measure to ensure that the payments would be administered in a timely manner. The AS details how SANG will be collected through the CIL, however it states that 'the SAMM Project is funded by Section 106 contributions'. Natural England have clarified that payments are expected to be made should through a legal agreement.
15. The appellant has pointed to a recent appeal decision² in which this method was accepted, however, I do not have full details of what was submitted with the appal before me, and in any case, I must consider this appeal on its own merits.
16. Accordingly, from the evidence before me, I cannot be sure that an appropriate means of securing adequate mitigation has been provided nor, therefore, that the proposal would not adversely affect the integrity of the SPA.
17. In summary, therefore, the evidence indicates that there is a good likelihood of recreational disturbance to the SPA through additional activity associated with the proposed development, which has the potential to affect the integrity of the SPA. The Habitats Regulations require me to consider whether there are any alternative solutions. I am not satisfied that the proposed mitigation put forward by the appellant would suffice. No other solutions have been put to me.
18. The provision of a single dwelling, taking into account the merits of the case and the modest scale of the development, is not sufficient to amount to such overriding public interest. As a result, having regard to the Habitat Regulations, permission must not be granted. Therefore, the proposed development would result in unjustified harm to the integrity of the SPA, contrary to DMP Policy CP14B and saved Policy NRM6 of the South East Plan (2009).

Other Matters

19. The proposal would result in an additional unit of accommodation which would make efficient use of the site and contribute to addressing the Government's

² Appear reference APP/D3640/W/22/3312673

broader objective of significantly boosting the supply of homes in a location with good access to services and facilities.

20. The proposal would result in a short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the new dwelling. However, given the quantum of development in this case, I give this matter limited weight.
21. I note that the application has received a letter of support, however this does not lead me to a different conclusion on the main issues.

Conclusion

22. The proposal would adversely affect the integrity of the Thames Basin Heaths SPA. Because of the provisions of the Regulations and notwithstanding that the proposed development would not harm character and appearance, in addition to the limited weight of the other benefits of the development set out above, this is an overriding consideration. Overall, it would be contrary to the development plan and there are no other material considerations to outweigh that finding. Therefore, for the reasons given, the appeal should not succeed.

B Phillips

INSPECTOR