



Appeal Decision

Site visit made on 15 August 2023

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 11 September 2023

Appeal Ref: APP/R3650/W/22/3313652

Land rear of 9 Brambleton Avenue, Farnham, Surrey GU9 8QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs Brindley against Waverley Borough Council.
 - The application Ref WA/2022/01306, is dated 29 April 2022.
 - The development proposed is erection of a dwelling including new vehicular access and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a dwelling including new vehicular access and associated works at Land rear of 9 Brambleton Avenue, Farnham, Surrey GU9 8QU in accordance with the terms of the application, Ref WA/2022/01306, dated 29 April 2022, subject to the attached schedule of conditions.

Preliminary Matter

2. While I note the description of development stated in the application form, I have used the description in the appeal form in the interests of certainty.

Main Issues

3. The Council stated that they would have approved the application if a formal decision were issued. However, from the wider evidence including from interested parties, the main issues are:
 - the effect of the proposal on the Wealden Heaths Phase I Special Protection Area (WHSPA) and Thames Basin Heath Special Protection Area (TBHSPA);
 - the effect of the proposal on the living conditions of neighbouring occupiers with regard to privacy and outlook; and
 - the effect of the proposal on highway safety.

Reasons

WHSPA and TBHSPA

4. The site lies within 5km of both WHSPA and TBHSPA and the proposal would lead to a net increase in dwellings.
5. WHSPA has ground nesting birds in heathland habitats. I note the comments of the Inspector for the case at Burnt Hill Road which lies near to the appeal site. The Inspector found that the evidence indicates that there are a number of alternative destinations for recreation between that appeal site and the closest

part of WHSPA. There are also a number of alternative destinations for recreation that are located closer to the appeal site than the WHSPA. Therefore, I am satisfied that future occupiers of the proposal would be more likely to use the alternative destinations for recreation rather than WHSPA. In addition, as the proposal is for a single dwelling, the number of future occupiers is likely to be limited. Moreover, Natural England has stated that no mitigation is required with respect to the WHSPA and it therefore has no objection to the proposal. On this basis I consider that the proposal would not result in likely significant effects on the WHSPA either alone, or in combination with other plans or projects.

6. Turning to the TBHSPA, it was designated for rare wild birds, in particular the Dartford warbler, Nightjar and Woodlark. Given the proximity of the site to the TBHSPA, future occupiers of the proposed residential development would be likely to use the SPA for recreation which would lead to disturbance of the birds and their habitat.
7. The Council has accepted a signed Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 that would ensure that a financial contribution towards the maintenance, improvement and operation of the Suitable Alternative Natural Greenspace and a Strategic Access Management and Monitoring contribution would be paid before the commencement of development.
8. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the CIL Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the site.
9. Consequently, the proposed development would not adversely affect the WHSPA and TBHSPA. Therefore, it would not conflict with Policies NE1 and NE3 of the Local Plan Part 1 Strategic Policies and Sites February 2018 (LP) which seek to conserve and enhance biodiversity and mitigate any potential adverse effects on the TBHSPA. In addition, it would not conflict with the National Planning Policy Framework (Framework) in this regard.

Living conditions

10. The site lies opposite No 12 Hillary Road (No 12). No 12 benefits from a spacious front garden and the proposed dwelling would be set back from the road by a moderate distance. As such there would be a significant separation distance between the two buildings. The windows in the front elevation of No 12 would be seen from the proposed dwelling, and the proposal would be at a higher ground level than No 12. However, given the significant distance between the two dwellings, the proposal would not result in an undue effect on the privacy of the neighbouring occupiers.
11. No 15 Hillary Road (No 15) lies to the west of the site. The site shares a boundary with No 15. However, the distance between the two houses would be significant. In addition, the angle between the rear elevation of No 15 and the proposed building would be oblique such that the proposal would not result in an unacceptable effect on the privacy of the neighbouring occupiers.
12. No 7 Brambleton Avenue (No 7) lies adjacent to No 9 Brambleton Avenue. Given the distance to the proposed dwelling and the oblique angle between the

buildings, the proposal would not have an undue effect on the privacy or outlook of the occupiers of No 7.

13. Consequently, the proposed development would not harm the living conditions of neighbouring occupiers with regard to privacy and outlook. Therefore, the proposal would not conflict with the aims of LP Policy TD1 which seeks high quality design.
14. Policy FNP1 of the Farnham Neighbourhood Plan April 2020 (FNP) and Policy DM5 of the Waverley Borough Local Plan (Part 2) (adopted March 2023) (LP Part 2) do not specifically relate to living conditions and are therefore not directly relevant to this main issue. FNP Policy FNP16 relates to building extensions rather than new dwellings and is therefore not directly relevant to this scheme.

Highway Safety

15. The proposal would include the provision three parking spaces in a driveway at the front of the house. The swept path analysis demonstrates that vehicles could reverse into the parking spaces without any collisions. I note local concerns regarding parking restrictions opposite the access. However, from my observations during the site visit, there is a dropped kerb on the opposite side of the road which is unlikely to be used for on-street parking.
16. A diagram showing the vehicle tracking for the third bay appears not to have been provided. However, given the space within the site and width of the access, I consider that vehicles could park in the bay and exit the site safely such that there would not be an unacceptable impact on highway safety. A condition relating to visibility splays would adequately mitigate the risk of collision with pedestrians and vehicles that may result from visibility issues.
17. Furthermore, the Highway Authority has not objected to the proposal and from the evidence before me I see no reason to disagree.
18. Consequently, the proposed development would not result in an unacceptable impact on highway safety. Therefore, it would not conflict with LP Policy ST1 which seeks, among other things, appropriate provision of car parking. It would also not conflict with the Framework which resists development that would result in an unacceptable impact on highway safety, or severe residual cumulative impacts on the road network.

Other Matters

19. I note local concerns including regarding flooding and drainage. However, the site lies within Flood Zone 1 and I therefore see no reason why this issue cannot be dealt with by a suitably worded condition.
20. I also note local concerns regarding wildlife and character and appearance. However, the Council did not have any objections in this respect and from the evidence before me I see no reason to disagree.

Conditions

21. The conditions regarding time limit and specifying plans are necessary in the interests of certainty.

- 22. The condition relating to materials is necessary to safeguard the character and appearance of the area. In the interests of highway safety, conditions regarding vehicular access, and parking and cycling spaces are necessary.
- 23. The conditions relating to fast charge sockets, water and climate change are necessary in the interests of sustainability. The condition regarding broadband is necessary to accord with LP Policy CC2.
- 24. In order to safeguard the living conditions of neighbouring occupiers, conditions regarding construction works and removing permitted development rights relating to windows and doors are necessary. The condition relating to drainage is necessary to safeguard against flooding and needs to be a pre-commencement condition as it is likely to affect the early stages of construction.

Conclusion

- 25. For the reasons given above the appeal should be allowed.

R Sabu

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: PL01B, PL02, PL03, PL04, PL05, PL06B, PL07B, PL08A and PL09
- 3) Development shall not commence until details have first been submitted to and approved in writing by the local planning authority of drainage works to serve the driveway of the development. The development shall be carried out in accordance with the approved details.
- 4) No above ground development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 5) No above ground development shall commence (excluding site clearance and demolition) until a scheme of climate change and sustainability measures has been submitted to and approved in writing by the local planning authority. The scheme shall have regard for the content of the Council's Climate Change and Sustainability SPD (2022). The approved scheme shall be implemented prior to first occupation of the development and thereafter retained.
- 6) No part of the development shall be first occupied unless and until the proposed vehicular access to Hillary Road has been constructed and provided with visibility zones in accordance with the approved plans (Drawing No. 18074-001-RevC) and thereafter the visibility zones shall be kept permanently clear of any obstruction over 0.6m high.
- 7) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans (Drawing No. PL06D) for vehicles and cycles to be parked. Thereafter the parking areas shall be retained and maintained for their designated purposes.
- 8) The development hereby approved shall not be occupied unless and until the proposed dwelling is provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with the approved plans and thereafter retained and maintained to the satisfaction of the local planning authority.
- 9) Prior to the occupation of the dwelling, details shall be submitted to and be approved in writing by the local planning authority to confirm that the dwellings have been completed to meet the requirement of 110 litres of water per person per day.
- 10) Prior to the first occupation of the dwellings hereby permitted the highest available speed broadband infrastructure shall be installed and made available for use unless otherwise agreed in writing by the local planning authority.
- 11) Construction works, including works of site clearance and ground preparation, and including deliveries to and from the site, shall not take

place other than between 08.00-18.00 hours Monday-Friday, 08.00-13.00 hours on Saturdays and at no time on Sundays or on Bank or Public holidays.

- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows or other openings other than those expressly authorised by this permission shall be constructed in the north eastern or south western elevations of the dwelling hereby permitted without the written permission of the local planning authority.

END OF SCHEDULE