



Appeal Decision

Site visit made on 19 September 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2023

Appeal Ref: APP/R3650/W/23/3317175

The Granary, Wrecclesham Hill, Wrecclesham, Farnham GU10 4JS

- 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 Mrs Dutton against the decision of Waverley Borough Council.
- The application Ref WA/2021/03198, dated 22 September 2021, was refused by notice dated 5 December 2022.
- The development proposed is the erection of a new dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the application was determined, the Waverley Local Plan 2002 has been superseded by the Local Plan Part 2¹, adopted on 21 March 2023. As a result, the Retained Policies D1, D4, D5, D6, D7 and C7 of the Waverley Borough Council Local Plan 2022 referred to on the decision notice have been replaced by policies DM1, DM5 and DM11 of the Local Plan Part 2.
3. On the decision notice, the Council refer to the National Planning Policy Framework 2021 (the Framework). A new version of the Framework came into effect in September 2023. However, as the Framework's policy content insofar as it relates to the main issues of this appeal is unchanged, I do not need to seek views from the appeal parties in this respect.

Main Issues

4. The main issues are:
 - the effect of the proposed development on ancient woodland and trees; and
 - whether the proposed development would provide satisfactory living conditions for future occupiers with particular regard to outlook, daylight and external amenity space.

Reasons

Ancient Woodland and trees

5. The appeal site includes an area of ancient woodland, also subject to a Tree Preservation Order², albeit with a slightly different boundary. An ancient woodland is defined as an irreplaceable habitat. As set in paragraph 180(c) of the Framework, development that results in the loss or deterioration of

¹ Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies (Local Plan Part 2)

² TPO No. 52/99 designated 25 December 1999 and confirmed on 9 June 2000

irreplaceable habitats should be refused unless there are wholly exceptional reasons (such as infrastructure projects), and a suitable compensation strategy exists.

6. Where development is proposed near ancient woodland areas, the joint standing advice from the Forestry Commission and Natural England includes a minimum of a 15-metre buffer zone from the ancient woodland which should be free from development, including gardens. This buffer seeks to avoid root damage. The evidence before me indicates that the majority of the proposed development, including the dwelling and garden area, would be located within this buffer.
7. The appellant has submitted additional information as part of the appeal including further comments from the Forestry Commission³ following a site meeting. Whilst providing more detail regarding the location of surviving ancient and semi-natural woodland, the boundary of the irreplaceable habitat has not been changed. Therefore, even if the appellant considers the boundary to have been inaccurately drawn, the area of ancient woodland, and therefore the buffer zone, remains. Furthermore, as confirmed by Planning Practice Guidance⁴, the existing condition of an ancient woodland is not something that ought to affect the consideration of a development proposal and that woodland condition can usually be improved with good management.
8. A Preliminary Management Statement⁵ has been prepared for the ancient woodland which includes periodical management and monitoring of the trees within the site suffering from ash dieback. Improvements and enhancements to the ancient woodland would be implemented through the works set out in this statement. However, whilst the appellant contends these works would be undertaken as part of the proposed development, I have no substantive evidence before me to conclude they could not be implemented regardless of my decision.
9. Consequently, I conclude that the proposed development would cause harm to an area of ancient woodland and trees, contrary to policies NE1 and NE2 of the Local Plan Part 1 and policies DM1 and DM11 of the Local Plan Part 2. In combination, these policies resist development that would harm the integrity of a nature conservation interest and require, amongst other matters, development to maintain existing trees and woodland.
10. It would also conflict with paragraph 180(c) of the Framework which resists development that would result in the loss or deterioration of irreplaceable habitats. No wholly exceptional reasons exist in support of the proposed development which would outweigh this harm.

Living conditions

11. The proposed development comprises a two-storey detached dwelling located on land currently forming part of the property known as The Granary. It would be positioned close to the existing site boundaries with 10 Grove Close (No 10) and an area of woodland. Substantial hedging and, in the case of the woodland edge, mature trees, form these boundaries. The scale of these landscape features is accentuated by the earth banking that creates a marked change in

³ Email 'The Granary – Development and AW' from Matthew Woodcock dated 13 February 2023

⁴ Paragraph: 033 Reference ID: 8-033-20190721

⁵ Prepared by Draffin Associates, dated 17 September 2021

level between the appeal site and the higher ground beyond these two boundaries.

12. The upper storey of the proposed dwelling would comprise three double bedrooms, with bedroom 2 shown on the Proposed First Floor Plan⁶ orientated towards the woodland edge boundary. Although benefitting from two windows, given the proximity and height of the existing hedge and trees along this boundary, these features would limit the amount of daylight reaching the bedroom windows. While not forming part of the main living area of the proposed dwelling, bedrooms are habitable rooms, regardless of the level of use, and should therefore benefit from satisfactory levels of daylight. I also note that the size of the windows shown on the plan differs from those shown on the Proposed Elevations⁷, the latter showing two windows of the same size whilst different window widths are shown on the former. Whilst the appellant contends adequate daylight would reach the bedroom, limited substantive detail has been provided demonstrating this. As such, I am unable to conclude with certainty that bedroom 2 would not be dark and uninviting, to the detriment of future occupiers.
13. The outlook from these windows would also be significantly obstructed and enclosed by the boundary landscape features. Whilst an occupier who appreciates the woodland setting of the proposed dwelling may consider this outlook to be pleasant, another may find it oppressive. Regardless, the acceptability from one person or another is not a reason to permit development that would not provide satisfactory levels of living conditions.
14. At the time of its decision, the Council did not have minimum standards concerning garden sizes, and I acknowledge that the scheme was amended during the determination period of the application to improve the amount of space around the dwelling, amongst other things. However, Policy DM5 of the recently adopted Local Plan Part 2 stipulates that, where an area of private garden is proposed for the exclusive use of a dwelling, this should be at least 10 metres in depth and the width of the dwelling. Whilst the use of such dimensions may be considered to be rigid and intended to prevent overlooking, Policy DM5 further requires that external amenity space should be appropriately located and useable.
15. The proposed development comprises an area of garden space alongside the proposed drive to the front of the dwelling. Given its shape and the provision of direct access from the main living area of the dwelling, I see no reason to conclude that garden space would not be usable. It would be private with a good level of surveillance from the proposed dwelling and not overlooked by neighbouring properties. However, in terms of its depth and width, the submitted plans confirm that the size of the proposed garden space would not meet either standard set out in Policy DM5 by a substantial margin. This would be detrimental to future occupiers.
16. I conclude that the proposed development would not provide satisfactory living conditions for future occupiers with particular regard to outlook, daylight and external amenity space. It would conflict with Policy TD1 of the Local Plan Part 1⁸ and Policy DM5 of the Local Plan Part 2 which seeks to avoid harm to the

⁶ Drawing Number 2014_022 rev B

⁷ Drawing Number 2014_025 rev B

⁸ Waverley Borough Local Plan Part 1: Strategic Policies and Sites (Local Plan Part 1)

amenity of future occupants whilst maximising opportunities to improve quality of life, health and well-being. I also find conflict with Chapter 12 of the Framework which requires development to provide a high standard of amenity for all users.

Other Matters

17. I have been referred to a Certificate of Lawfulness⁹ granted for an outbuilding on the appeal site. As such, there is a greater than theoretical possibility that this outbuilding could be constructed. The outbuilding would be positioned in a similar location as the appeal scheme, although with a larger footprint. Even if comparable services and foundations are proposed in both schemes, as an ancillary building to The Granary, it would not be necessary for the outbuilding to achieve the same standard of living conditions as the proposed dwelling. As I have found the appeal scheme would cause unacceptable harm to the living conditions of future occupiers it would be more harmful in this respect than the outbuilding. I acknowledge that the proposed development provides opportunities to reduce the hardstanding areas close to the woodland, incorporate permeable surfaces and control the residential curtilage. However, I see no reason why such opportunities could not be maximised should the outbuilding be constructed. I therefore attach limited weight to this fallback scenario.
18. The proposed development would provide social and economic benefits from the construction and the occupation of a smaller family home in terms of employment opportunities and supporting the local economy given its accessibility to nearby services and facilities. Environmental benefits would be derived from an effective use of land and a dwelling built to modern standards and incorporating sustainability measures. However, these benefits would be small given the scale of the appeal scheme, even if I were to conclude the appeal site represents previously developed land. Therefore, I attach moderate weight to these public benefits.
19. The site is located within 5km of the Wealden Heaths Special Protection Area (SPA) and the Thames Basin Heaths SPA, European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017. Although not an issue raised by the Council, the appellant has confirmed a willingness to enter into a legal agreement and an executed Unilateral Undertaking has been submitted. If the circumstances leading to the grant of planning permission had been present, I would have considered the impact of the proposed development upon the SPAs, in accordance with the Conservation of Habitats and Species Regulations 2017. However, as I am dismissing the appeal on the main issues above, I have not found it necessary to consider such matters further as this would not alter the outcome of the appeal.
20. My attention has been drawn to housing developments that have recently been constructed close to the appeal site at Grove Close and Gardenia Drive. Notwithstanding the limited information before me regarding these schemes, as they comprise more than one dwelling they are materially different developments. As such, these developments are not determinative in this appeal.

⁹ Council ref WA/2019/0439 dated 30 April 2019

21. The lack of concerns raised by the Council relating to the effect of the proposed development on the countryside, the Area of Great Landscape Value, living conditions of neighbouring occupiers, highway safety and parking, the character and appearance of the area, and biodiversity are neutral factors in my decision.
22. Any concerns regarding the amount of time taken to determine the application and references to changes made to the scheme within the Officer Report fall outside the scope of this decision. I acknowledge the laudable proactive approach to consultation and negotiation pursued by the appellant, including the modifications to the development from a previously refused scheme¹⁰. However, such actions do not guarantee a positive outcome. Additionally, the positive comments from specific officers do not tie the Council to a particular decision.

Planning Balance

23. Policies NE1 and NE2 of the Local Plan Part 1 and policies DM1 and DM11 of the Local Plan Part 2 support the Framework's objective of protecting irreplaceable habitats by resisting development that would result in their loss or deterioration. Given this consistency with the Framework, I give the proposed development's conflict with them significant weight.
24. In respect of living conditions, the Framework seeks to ensure new houses achieve high standards of living conditions for existing and future users, and that policies may make use of the nationally described space standards. Policy TD1 of the Local Plan Part 1 and Policy DM5 of the Local Plan Part 2 are consistent with the Framework's objectives and make use of the aforementioned standards. As I have found that the proposed development would be contrary to these policies, I attach significant weight to this conflict.
25. There is no disagreement between the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 74 of the Framework. Based on the information before me, the latest position comprises 4.28 years of deliverable housing sites. In these circumstances, paragraph 11dii of the Framework states that permission should be granted unless policies in the Framework that protect an area of assets of particular importance provided a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As such, the most important policies for determining the appeal are deemed to be out of date and the presumption in favour of sustainable development is engaged. However, being out of date does not mean that the policies of the Local Plan Part 1 and Part 2, carry no weight in decision-making.
26. The Framework affirms the Government's objective of boosting the supply of homes and therefore, the provision of additional housing in an area where a shortfall in deliverable housing sites exists would be a public benefit. However, as the proposed development would provide a net gain of one dwelling, I attach moderate weight to this benefit and other social and economic benefits that follow. Additionally, I attach limited weight to the environmental benefits which would arise from the proposed development given its scale.

¹⁰ Council ref: WA/2019/1163

27. I have attributed significant weight to the appeal scheme's conflict with the Framework's objectives of protecting the ancient woodland and providing a high standard of living conditions for future occupiers. Consequently, the identified adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

28. The proposed development conflicts with the development plan as a whole and there are no material considerations, either individually or in combination, including the Framework and its presumption in favour of sustainable development, that outweigh this conflict.

29. For the reasons identified above, the appeal is dismissed.

Juliet Rogers

INSPECTOR