



Appeal Decision

Site visit made on 6 September 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/R3650/W/22/3311453

Land to south of Oast House Lane, Upper Hale, Farnham GU9 0NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Terence Lyons (Flavia Estates) against the decision of Waverley Borough Council.
 - The application Ref WA/2022/01125, dated 1 April 2022, was refused by notice dated 28 October 2022.
 - The development proposed is the erection of 9 new houses with associated parking and new access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is for outline planning permission with access and layout to be considered at this stage. The matters of appearance, landscaping and scale are reserved for subsequent consideration. I have considered the proposal on this basis.
3. The second reason for refusal related to the absence of a legal agreement to secure contributions towards Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM). These were said to be required to ensure that the proposed development would not adversely affect the integrity of the Thames Basin Heaths Special Protection Area. A Unilateral Undertaking has subsequently been submitted by the appellant to address this issue. I return to this matter later in my decision.
4. A revised National Planning Policy Framework (the Framework) was published by the Government after the determination of the planning application. It does not raise any new considerations in relation to this appeal.

Main Issues

5. The main issues are the effect of the proposed development on a) the character and appearance of the area; and b) protected species.

Reasons

Character and Appearance

6. The appeal site comprises a grassed field enclosed on all sides by existing trees and vegetation. It is bound to the north by existing detached houses and to the west by Oast House Lane, which provides access to the site. On the opposite side of Oast House Lane, which is a not overly wide unmade road, are also

detached dwellings. To the south and east, the site is bound by a combination of Farnham Park, a Grade II listed Historic Park and Garden; and land identified as a Suitable Alternative Natural Greenspace. These areas to the south and east of the site broadly comprise gently undulating open grassland with some, more wooded areas beyond. In addition to the site being within the open countryside, it is also within an Area of Great Landscape Value (AGLV), which is a local landscape designation.

7. Policy RE1 of the Waverley Local Plan Part 1 2018 (LPP1) seeks to safeguard the intrinsic character and beauty of the countryside and Policy RE3 of LPP1 more specifically seeks to protect certain designated landscapes, including the AGLV, for its own sake. Policies FNP10 and FNP11 of the Farnham Neighbourhood Plan 2020 (FNP) similarly seek to protect the countryside outside of built-up areas and more specifically prevent coalescence between particular areas.
8. Within the immediate vicinity of the appeal site, the existing houses positively contribute to the prevailing spacious character of the area. Indeed, together with the unmade nature of Oast House Lane itself, the character is very much that of a transition from built up area to countryside. Within this context, the appeal site is undoubtedly part of the verdant countryside beyond the built-up area.
9. Given the above and from my observations of the site and of the surrounding area, the proposal would clearly represent an expansion of the built up area into the open countryside. Furthermore, whilst the proposal is in outline, the description of what has been applied for is nine dwellings, together with the layout and access. It does not seem to me that nine dwellings on this site, with the suburban cul-du-sac type layout proposed, together with the extent of the access road and any associated hardstanding, would retain any sense of transition or establish a positive relationship with the wider, sensitive open countryside beyond. The harm that would arise would not be capable of being addressed through additional landscaping around or through the site.
10. I have had regard to the appellant's broad points that any expansion of a built up area will have some effect on a landscape and that there is policy support in the LPP1 for some edge of settlement development. However, I have considered the specific proposal which is before me for this particular site and found there to be significant harm to the existing character and appearance of the area. Therefore, the appellant's arguments in this regard do not lead me to allowing the appeal.
11. The appellant also points to the status of the land to the south and east of the site, which is said to provide a longer-term guarantee against further development and expansion of the settlement in this area. However, this would not have a positive bearing on the overall harm I have identified. Indeed, in my opinion, it would merely serve to ensure that the harm to the wider area arising from the proposal would be long lasting.
12. On this main issue I therefore conclude that the development would represent a harmful incursion into the countryside that would not protect or respect the AGLV designation and would cause harm to the character and appearance of the area as a whole. The proposal therefore conflicts with Policies RE1 and RE3 of the LPP1 and Policies FNP10 and FNP11 of the FNP which, amongst other things, seek to protect the intrinsic character and beauty of the countryside,

particularly from inappropriate development and to retain the distinctive character of the AGLV for its own sake.

Protected Species

13. The Council initially concluded that there was insufficient information in relation to badgers and bats and in particular the extent of any harm to them or their habitat. Subsequent to the submission of this appeal, further clarifications have been provided.
14. As a result, the Council is now satisfied that a condition requiring a survey to be undertaken prior to commencement of the development would address their concerns with regard to badgers. The appellant is content with this approach.
15. With regard to the presence of bats, the appellant has clarified that all trees were assessed in the Ecological Assessment (March 2022) by GS Ecology but that only one tree was noted as potentially being suitable for roosting bats. That tree is confirmed as being T5, which will remain as part of the proposals. As such any existing potential bat roosts would be retained and protected accordingly.
16. In view of the above, and subject to the imposition of appropriate conditions, I conclude on this issue that the proposal would not adversely affect protected species. On this basis the proposal would accord with Policy NE1 of the LPP1 which, amongst other things, seeks to conserve and enhance biodiversity and ensure any adverse impacts are avoided or appropriately mitigated.
17. The Council's decision refers to Policy D1 of the Waverley Local Plan 2002, which sought to ensure acceptable environmental implications of development. This Local Plan now appears to have been superseded. The Council has not identified an alternative policy which might be applicable to this issue. However, given my findings above, I am satisfied that this does not alter my conclusions in relation to this main issue.
18. The proposal would therefore accord with the Framework, which amongst other things, seeks to minimise impacts on biodiversity and geodiversity.

Other Matters

19. The appellant points out that there are matters such as housing mix, highway safety, flooding, arboriculture etc. where no objections have been raised and appropriate planning conditions can be applied to an approval. However, these matters would represent a lack of harm and so accordingly they would be neutral in the overall balance.

Planning Balance

20. There is no dispute between the main parties that the Council is unable to demonstrate a 5-year supply of deliverable housing land. Accordingly, Paragraph 11(d)(ii) of the Framework is engaged.
21. The Government's objective is to significantly boost the supply of housing and the proposal would provide nine additional dwellings. Given the Council's under delivery of housing sites and despite the relatively small scale of the proposal, the provision of these houses would be a useful addition to the supply of homes in the area. Indeed, the Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement

- of an area and are often built out relatively quickly. I therefore give this matter considerable weight.
22. The scheme would also lead to some time-limited, economic benefit during the construction phase, which may give rise to extra local employment. There would also be longer term economic support to the area, once the units were occupied. The properties would also provide a social benefit of further households in the area. However, given the scale of the development I attribute only limited weight to these economic and social benefits in support of the scheme.
23. The site is outside the defined settlement and within the open countryside. The need to protect the character and appearance of a local area, and the natural environment in particular, is perennial and in direct compliance with the Framework. The harm I have identified in respect of the proposal would be both considerable and long lasting and unlikely to diminish over time. As a consequence, it is worthy of substantial weight.
24. My findings in relation to the development being able to safeguard any protected species on site would be neutral in the overall balance.
25. I therefore find that, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The proposal would not therefore be sustainable development.
26. During the appeal a completed Unilateral Undertaking was submitted by the appellants to provide a financial contribution to mitigate the impact of the proposal upon the Thames Basin Heaths Special Protection Area (SPA). The Council has subsequently confirmed that this addresses their concerns and the second reason for refusal falls away.
27. Although this would suggest that the SPA would not now be likely to provide a clear reason for refusing the development, Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) would still require an Appropriate Assessment to ensure that the development would not adversely affect the integrity of the SPA. However, as I am dismissing the appeal for another reason, this assessment is not necessary.

Conclusion

28. Whilst there would be some beneficial aspects of the scheme, considered overall the development would cause harm which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan.
29. For the reasons given above, and having had regard to all other matters raised, I conclude that this appeal should not succeed.

Stewart Glassar

INSPECTOR