

Appeals Progress Report

1. New Appeals

- 1.1 There are no new appeals to report.

2. Appeal decisions

2.1 110-118 Victoria Road Farnborough

In March 2018 the Development Management committee refused planning permission (17/00956//FULPP) for the demolition of 110-118 Victoria Road and the erection of 42 apartments (27 one bedroom and 15 two bedroom) for the elderly (sixty years of age and/or partner over fifty five years of age), guest apartment, communal facilities, access, car parking and landscaping on the following grounds:

- 1 The proposed building would represent a significant change in height and massing resulting in unsympathetic building relationships between it and existing property to the detriment of the character of the area. This conflicts with "saved" local plan policy ENV16 and policy CP2 of the Rushmoor Core Strategy. Regard has also been had to policy D1 of the Rushmoor Local Plan Draft Submission June 2017.
- 2 The proposed first and second floor windows in the east elevation are considered to result in levels of overlooking between the development and 108 Victoria Road which would result in an unacceptable loss of privacy to these occupiers. In the context of Fern Hill Lodge, the cumulative impact of buildings would result in an unacceptable sense of enclosure to the occupiers of 108 Victoria Road. The proposal therefore conflicts with "saved" local plan policy ENV16 and policy CP2 of the Rushmoor Core Strategy.
- 3 The lack of kitchen windows serving flats 10, 16, 19, 31, 32, 34, 35, 36 and 37 would result in an unacceptable living environment for future residents by virtue of the lack of natural light and ventilation. It represents poor design contrary to Policy CP2 of the Rushmoor Core Strategy.
- 4 The development is unacceptable in highway terms in that no staff car parking has been provided, the size of the parking spaces do not comply with the Council's adopted standard, no disabled parking provision has been made, inadequate provision for mobility scooters and cycles has been made and it has not been satisfactorily demonstrated that acceptable refuse collection arrangements can be provided. The proposal conflicts with the objectives of policy CP16 of the Rushmoor Core Strategy and the Council's adopted Car and Cycle Parking Standards 2017. Regard has also been had to policy IN2 of the Rushmoor Local Plan Draft Submission June 2017.

- 5 The proposal fails to address the impact of the development on the Thames Basin Heaths Special Protection Area as required by the habitats Regulations in accordance with the Council's Thames Basin Heaths Special Protection Area Interim Avoidance and Mitigation Strategy and is therefore contrary to Policy CP13 of the Rushmoor Core Strategy and NRM6 of the South East Plan. Regard has been had to policies NE1 and NE4 of the Rushmoor Local Plan Draft Submission 2017.
- 6 The proposed development would fail to make provision for open space contrary to the provisions of policy CP12 of the Rushmoor Core Strategy and "saved" policy OR4 of the Rushmoor Local Plan Review 1996-2011. Regard has also been had to policy DE6 of the Rushmoor Local Plan Draft Submission 2017.
- 7 The proposal fails to make an appropriate contribution to local transport projects and therefore does not meet the requirements of the Council's adopted supplementary planning document - Planning Contributions - Transport 2008 and "saved" policy TR10 of the Rushmoor Local Plan Review 1996-2011. Regard has also been had to policy IN2 of the Rushmoor Local Plan Draft Submission June 2017.

In dismissing the appeal the Inspector made the following comments:

Reason for refusal 1

Balmoral Court and Fern Hill Lodge are both well-articulated buildings; part of this articulation includes 'stepping down' the roofs and eaves at the boundaries of the site to address the domestic scale of adjoining houses.

The appeal scheme would lack this sympathetic interface. Obvious attempts have been made to reduce the visual mass of the development by sinking it into the site and dividing the principal elevation into a central block with two contrasting wings either side. However, the wings would be out of scale with neighbouring properties and they would appear overly-dominant.

Reason for refusal 2

The rear garden and patio area to No.108 are already overlooked from upper floor windows in the Fern Hill Lodge development. Nevertheless, trees within the garden of this neighbour provide some privacy, mainly during the summer months when the trees are in leaf. The boundary with the appeal site is more open, providing greater opportunity for overlooking. The proposed building would be closer to No.108 than Fern Hill Lodge, and this proximity of built form would lead to an increased sense of enclosure. I conclude that the development would be intrusive and materially harmful to the living conditions of the neighbours, contrary to RLP Policy DE1(c).

Reason for refusal 3

The Council is concerned that the kitchens within several of the proposed flats would lack any form of natural light or ventilation. Kitchens are habitable rooms within which

future residents are likely to spend a reasonable amount of time. Where possible, it is important that such spaces enjoy adequate levels of fresh air and daylight. Although the former is difficult to address under the current layout, the appellant has demonstrated through a subsequent approved scheme that it is possible to provide a better quality of internal environment through the insertion of roof lights and by deleting internal partitions to enable light to penetrate to the back of the flat. The appeal scheme's failure to take this opportunity to provide a higher quality living environment constitutes poor design which is contrary to the requirements of RLP Policy DE1(c).

Reason for refusal 4

The site is located on a busy arterial route into the centre of Farnborough. The Council is concerned that collection of refuse from the kerbside would adversely affect the flow of traffic on Victoria Road. The appellant contends that the refuse collection arrangements would be no different to those which presently exist, whereby individual householders place their bin at the kerbside for emptying in the early hours of the morning.

No evidence is presented in relation to the type of wheelie bins to be used in the scheme. Nevertheless, the number of residential units in the scheme is such that the process of emptying bins is likely to take longer, resulting in the refuse freighter obstructing the carriageway for an extended period. Whether this would harm the safe and efficient operation of the highway would depend to some extent on the timing of the collection service, something which is outside of planning control. The traffic disruption arising from the arrival of a freighter during peak hours would be detrimental to highway safety and for this reason, I share the Council's view that refuse collection should take place within the site.

The Inspector was of the view that the scheme did make adequate car parking provision to serve the site and did not uphold an objection to the proposal on this ground, whilst concluding that planning conditions could be used to secure a disabled space adjacent to the main entrance, appropriate parking space widths and a cycle parking facility.

The Inspector recognised the benefits in delivering housing for older people and acknowledged that they attract significant weight in the planning balance, but they are tempered by the fact that the same benefits are achievable within a scheme which already has planning permission. The approved scheme does not suffer

from the shortfalls of the appeal scheme which conflicts with development plan policy in terms of the quality of living environment provided within certain flats and the impacts on the street scene, living conditions of adjoining residential occupiers and the operation of the public highway. Furthermore, the failure to secure measures to mitigate or avoid adverse impacts on the integrity of the Thames Basin Heaths SPA would be contrary to planning policy and the provisions of the Habitats Regulations.

DECISION : APPEAL DISMISSED

2.2 152 Sycamore Road, Farnborough

In April 2018, the Council refused planning permission under delegated powers for the erection of a three bedroom detached house on land to rear with access to the public highway via King George Close on the following grounds:

- 1 The proposal would result in the creation of a new dwellinghouse within the Public Safety Zone of Farnborough Airport and would result in an increase in the number of people on the ground at risk of death or injury in the event of an aircraft accident on take-off or landing. The proposal is contrary to Department for Transport Circular 01/2010 - Control of Development in Airport Public Safety Zones.
- 2 The proposal, by reason of its back land location, its elevated position relative to the existing properties in Sycamore Road, its position within the plot and its design and materials, would be visually intrusive within the street scene and out-of-character with the surrounding pattern of development, and combined with the removal of a significant number of amenity trees, would adversely affect the character and amenity of the area. The proposal is contrary to Policy CP2 of the Rushmoor Core Strategy, saved Policy ENV17 of the Rushmoor Local Plan, paragraph 4.3 of the Council's Housing Density and Design Supplementary Planning Document and paragraph 53 of the National Planning Policy Framework.
- 3 The proposal would require the removal of a significant number of TPO protected trees, which are healthy and makes a significant contribution to the Sycamore Road street-scene. Moreover, any retained trees to the South and West of the new footprint would, given their height and proximity to the proposed dwelling, be at risk of pressure to further diminish their height and spread following occupancy, in order to improve natural daylighting and to improve the usability of the garden, which would otherwise be in shade. The proposal is contrary to saved Policy ENV13 of the Rushmoor Local Plan Review.
- 4 The proposal fails to provide mitigation for the impact of the development on the Thames Basin Heaths Special Protection Area in accordance with the Council's Thames Basin Heaths Special Protection Area Interim Avoidance and Mitigation Strategy and is therefore contrary to Policy CP13 of the Rushmoor Core Strategy.

In dismissing the appeal, the Inspector made the following comments:

With respect to the first reason for refusal, he commented that it is clear that the appeal site is at least partly located within the PSZ of Farnborough Airport and the appeal proposal would increase the number of people living within the PSZ. Consequently, the proposal would conflict with the advice contained within the Circular. He therefore concluded that the appeal site would not be a suitable location for residential

development in so far that the occupiers of the proposed dwelling would be placed at significant risk in the event of an aircraft accident.

With respect to reasons two and three, the Inspector agreed with the Council that the existing dense woodland has a high amenity value. The trees provide a verdant backdrop to the houses in St Georges Close and provide an attractive landscaped buffer in what is an otherwise built up area. Due to their prominence, the trees are a defining and characteristic feature of the locality. The extensive tree removal proposed would open up views into the site from King Georges Close and in doing so, would significantly detract from the aforementioned positive attributes of the area.

The trees are also highly visible from Sycamore Road and the extensive tree removal proposed would also affect views over the existing houses in Sycamore Road. Although the retained trees would still be visible, the important backdrop of the dense, tall trees, would be thinned and consequently become visually less dominant in the street scene. The proposed loss of the trees would therefore result in material harm being caused to the character and appearance of the area. He also considered that the few trees that would be retained would place the garden area of the property in shade. As a consequence, the enjoyment of the proposed amenity space would be severely compromised. This would likely have the effect of future occupants placing pressure on the Council to prune or fell more of the protected trees which would further be to the detriment of the character and appearance of the area.

In the absence of sectional drawings to demonstrate otherwise, the Inspector did not agree with the Council that the dwelling would be unduly prominent in the street scene.

Notwithstanding this, and for the reasons identified above, the Inspector concluded that the proposal would harm the character and appearance of the surrounding area. Therefore, the proposal would fail to accord with Policies DE1 and NE3 of the LP, advice provided in the Housing Density and Design Supplementary Planning Document (2006) and the Framework. Taken together, these policies seek amongst other things, development which makes a positive contribution towards improving the quality of the built environment and which does not adversely affect existing trees worthy of retention, particularly those subject to Tree Preservation Orders.

The Inspector noted the Council's fourth reason for refusal, but since he proposed to dismiss the appeal on other grounds, he did not feel it necessary to consider the lack of mitigation for the impact of the proposal upon the Thames Basin Heaths Special Protection Area further.

DECISION : APPEAL DISMISSED

The appellant also made an application for a full award of costs against the Council on the grounds that the Council had behaved unreasonably in refusing the application, while the Council made an application for a full award of costs against the appellant on the grounds that he has behaved unreasonably by pursuing an application and appeal that had little prospect of succeeding.

Both applications for a full award of costs were refused.

In refusing the appellants application for costs, the Inspector comments that the applicant suggests that in refusing planning permission, the appeal site has become blighted. As a consequence, the applicant's submission principally relates to the desire for compensation. However, the parameters of the costs regime is quite clear and the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The site is located within a Public Safety Zone (PSZ) and Circular 01/10, Control of Development in Airport Public Safety Zones, states that there should be a general presumption against new or replacement development within PSZ's. Whilst this restricts the development opportunities of the site, it does not imply that the Council has acted unreasonably in refusing planning permission. The decision was substantiated with a clear and well-articulated report and subsequent statement of case, and the concerns of the Council were not based on vague or generalised assertions. He therefore found that in refusing planning permission, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, had not been demonstrated.

In refusing the Council's application for costs, the Inspector commented that while the pre-application advice refers to the PSZ, it does not make explicit reference to Circular 01/2010 and the very clear advice that it contains. Moreover, although in the advice the Council suspected that the airport operator would object, this was not categorical. As a consequence, in pursuing the subsequent application and appeal, the appellant was exercising their right to test this advice and subsequent decision in a reasonable manner. Although the appeal has failed, he was satisfied that this was not a scenario whereby the appeal had no reasonable prospect of succeeding. Therefore, again he found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated

2.3 60 Hazel Avenue, Farnborough

In 9 October 2018, the Council refused planning permission for the erection of a part single and part two storey rear extension on the following grounds:

- 1 The proposed part single and part two storey rear extension, by reason of its depth, massing and relationship to neighbouring properties would result in overdevelopment of the site and give rise to an overbearing and unneighbourly form of development resulting in an increased sense of enclosure and loss of outlook and amenity to the living environment of the occupiers of 62 Hazel Avenue. Therefore the proposal conflicts with the objectives of CP2 of the Rushmoor Core Strategy adopted October 2011, "Saved Policies ENV15 and H15 of the Rushmoor Local Plan Review (1196-2011) and emerging policies DE5 of the Rushmoor Local Plan (Draft) 2014 to 2032.

In dismissing the appeal, the Inspector made the following comments:

The proposal includes a ground floor extension projecting approximately 4.5m beyond the rear wall of the neighbouring property, No. 62, approximately 0.2m from the boundary with the latter. A proposed two storey element would extend approximately 3.7m from the original wall of No. 60 and would be set approximately 1m from the side

boundary with No. 62. She considered that the size, bulk and siting of the proposal would have a detrimental effect on the outlook from the habitable windows at the rear of No. 62. Although the rear aspect is south facing and the levels of sunlight would not be unduly affected, the gardens are small and narrow. An extension of this size and proximity would appear overbearing and result in an increased sense of enclosure in the outlook from No. 62. She concluded that the proposal would harm the living conditions of the neighbouring residents by reason of its overbearing impact on their outlook, contrary to Core Strategy policy CS2, local plan policies ENV17 and H15 and the Framework.

DECISION : APPEAL DISMISSED

3. Recommendation

3.1 It is recommended that the report be NOTED.

Tim Mills
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