

Appeals Progress Report

1. Appeal decisions

1.1 Pinehurst House, 117 Farnborough Road, Farnborough

At the 7 November 2018 meeting, the Development Management Committee refused planning permission (18/00466/FULPP) for: "Erection of extensions and alterations to existing office building (Use Class B1) to facilitate conversion and change of use to residential use (Use Class C3) to provide 113 flats (comprising 7 X studio, 52 X 1-bedroom, 52 X 2-bedroom and 2 X 3-bedroom units); retention/provision of 199 on-site parking spaces and use of existing vehicular access to Farnborough Road; and landscaping including creation of new landscaped podium amenity courtyard" for the following reasons:-

- 1. The proposal, by virtue of the design, mass, bulk, and height of the additions to the building and the proximity of windows of new residential units, would have a detrimental effect on the amenities of neighbouring residential properties within The Convent, 115 Farnborough Road by virtue of enclosure and loss of privacy due to actual and perceived overlooking. The proposal is therefore contrary to adopted Rushmoor Core Strategy Policy CP2; saved Local Plan Policy ENV16; and emerging New Rushmoor Local Plan (2014 to 2032) Policy DE1. The proposal further fails to address the requirement for high quality design set out in the National Planning Policy Framework and Planning Practice Guidance.*
- 2. In the absence of a s106 Planning Obligation, the proposal fails to make provision for an appropriate Special Protection Area Mitigation and Avoidance contribution towards strategic access management measures in order to address the impact of the proposed development upon the nature conservation interests and objectives of the Thames Basin Heaths Special Protection Area. The proposals are thereby contrary to the requirements of retained South East Plan Policy NRM6; Policies CP13 and CP15 of the adopted Rushmoor Core Strategy (October 2011); and Policies NE1 & NE4 of the emerging New Rushmoor Local Plan (2014 to 2032).*
- 3. In the absence of a s106 Planning Obligation, the proposal fails to make provision for public open space in accordance with the requirements of Policies CP11 and CP12 of the adopted Rushmoor Core Strategy (October 2011); saved Local Plan Policies OR4 and OR4.1; emerging New Rushmoor Local Plan (2014 to 2032) Policy IN2; and the Council's continuing Interim Advice Note (dated August 2000 and updated July 2006) "Financial Contributions towards Provision of Open Space in Association with New Housing Development".*

4. *In the absence of a s106 Planning Obligation, the proposal fails to make provision for appropriate transport contributions to address the impact on local highway infrastructure as required by Policies CP16 and CP17 of the adopted Rushmoor Core Strategy (October 2011); saved Local Plan Policy TR10; emerging New Rushmoor Local Plan (2014 to 2032) Policy IN2; and the Council's adopted "Planning Contributions : Transport" Supplementary Planning Document, April 2008."*

In allowing the appeal the Inspector considered the main issues to be the effect of the proposals on:-

- The effect of the proposed development on the living conditions of the occupiers of The Convent, 115 Farnborough Road with particular regard to privacy and outlook;
- The effect of the proposed development on the Thames Basin Heaths SPA; and
- Whether the proposal makes adequate provision for any additional need for public open space and transport infrastructure arising from the development.

The decision included the following comments in these respects:

Impact Upon The Convent : The eastern wall of the upper ground floor and first floor of Pinehurst House which faces and is closest to The Convent currently has extensive glazing, yet the proposals would alter this façade to a solid wall with a reduced number of windows with obscure glazing to the habitable rooms and partially obscure oriel windows to the bedrooms that would direct views away from The Convent. Accordingly, the Inspector concluded that, whilst the separation distance between the buildings would remain the same, the proposed windows would not result in undue breach of privacy.

The Inspector then considered the impact of the new second, third and fourth floor windows of the east elevation facing The Convent, but noted that they would be a substantial distance away. Moreover, windows in this elevation would also be either obscured or partially obscured oriel windows that would direct views away from The Convent such that no undue overlooking would arise. Whilst the Inspector acknowledged the Council's reference to perceived overlooking, they did not consider that there would be adverse impacts given the limited number of windows involved.

Areas of flat roof would not be accessible by future occupiers of the development and, where balconies and terraces were proposed on the north and south elevations, these would be provided with tall modesty screens such that no undue overlooking of The Convent would occur.

In terms of the outlook of occupiers of The Convent, the Inspector noted that the proposed scheme generally utilised the existing footprint of Pinehurst House, such that the building-to-building separation would remain unaltered. In terms of mass, the proposal at upper ground-, first and second-floor was not considered to be significantly different to the impact of the existing Pinehurst House and, as such, the proposals would not detrimentally affect the outlook of The Convent.

The proposed third- and fourth-floors would be significantly set back from the east edge of the building such that only a limited portion of these new floors would be visible from the ground floor flats of The Convent. Therefore the living conditions of occupiers of ground-floor flats would not be adversely affected in terms of outlook.

The Inspector noted that the rear-facing windows of the first-floor flats of the southern side of The Convent look out across the first-floor and roof of Pinehurst House. However, although the third and fourth storeys of the proposed development would be more visible, they would be set-back significantly such that no overbearing impact would arise.

Windows of the second-floor flats on the southern side of The Convent look out over the roof of Pinehurst House. However, whilst again the proposed additional floors of the proposal would be visible from these windows, they would also be located a significant distance away and, as such, no overbearing impact would occur. Furthermore, the Inspector considered that the proposed green roofs facing The Convent would soften the effect of the additional storeys.

The dormer windows of both of the third-floor flats at The Convent were noted to look out over the roof of Pinehurst House and would look down upon the proposed additional storeys and at a significant separation distance. As a result the inspector considered that the outlook from these flats would not be unduly affected by the proposals.

Finally, the Inspector considered the flats on the northern side of The Convent are generally a significant distance from Pinehurst House such that they would be less affected than flats on the southern side. Although the proposed additional storeys would be readily visible from these flats, the Inspector concluded that the proposed development would not appear overbearing from these flats. Furthermore, the proposed green roofs and landscaping would soften the impact when viewed from these neighbouring flats.

The Inspector acknowledged the concerns of residents of The Convent arising from the proposed change of use to residential, but concluded overall that the living conditions of occupiers of The Convent flats would not be harmed in terms of privacy and outlook.

Special Protection Area: The Inspector accepted that the Appellant's had submitted a s106 Planning Obligation with their appeal and that the Council had provided the appropriate allocation of SPA mitigation capacity, in this instance from the Bramshot Farm SANG. Since the SANG and SAMM contributions were 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 proposals, the Inspector concluded that the SPA impact was satisfactorily addressed.

Other S106 Contributions: The Inspector sought additional information from the Highway Authority (Hampshire County Council) during the consideration of the appeal in respect of the justification for the Transport contribution. However, they concluded that they were satisfied that both the public open space and transport contributions were 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 proposals. Accordingly, the Inspector accepted that the other financial contributions secured with the s106 Planning Obligation were reasonable and that the proposals made adequate provision in respect of these forms of infrastructure in accordance with adopted Development Plan policies and the National Planning Policy Framework.

DECISION : APPEAL ALLOWED

1.2 1 Coldharbour Lane, Farnborough.

Against the refusal of planning permission for 'the demolition of garage and outbuildings and erection of a two -storey building comprising two flats with associated parking, access and amenity space and retention of 1 Coldharbour Lane on a reduced curtilage' (18/00677/FUL).

Planning permission was refused for the following reasons:

- 1. As a consequence of the sub division of the existing curtilage and the introduction of a two-storey building containing flats with a large building footprint on a constrained plot which is currently garden, the proposal is considered to result in a cramped form of development which does not reflect the prevailing character of the area to its detriment. Furthermore the proposal would result in the substantial loss of the front boundary hedge which makes a positive contribution to the landscape character of the area. The proposal would therefore constitute an unacceptable overdevelopment of the site contrary to the provisions of Rushmoor Core Strategy Policies CP1 and CP2, "saved" Local Plan Policy ENV17, the Council's adopted "Housing Density and Design" and "Sustainable Design and Construction" Supplementary Planning Documents, April 2006 and the National Planning Policy Framework/Practice Guidance. Regard has also been had to policies D1, DE11 and NE3 of the Rushmoor Local Plan Draft Submission 2017 as proposed to be amended.*
- 2. It has not been satisfactorily demonstrated that the proposal would provide appropriate external amenity space for future residents. As such the proposal conflicts with policy CP2 of the Rushmoor Core Strategy and "saved" local plan policies ENV17 and H14. Regard has also been had to policy DE3 of the Rushmoor Local Plan Draft Submission June 2017.*
- 3. 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 and policy NRM6 of the South East Plan. Regard has also been had to policy NE1 of the Rushmoor Local Plan Draft Submission 2017 as proposed to be amended.*

The site comprises the side curtilage of 1 Cold Harbour Lane which is a triangular shaped piece of land tapering to the west laid to lawn with a driveway and garage. The site has a tall evergreen hedge along the front boundary.

The Inspector agreed that although the height and front of the proposed flat building follows the established building line, its close relationship to the rear property boundary due to the shallow plot depth would be apparent in the streetscene and would make the development appear uncharacteristically cramped given the spacious nature of surrounding plots. This, and to a lesser extent, the removal of the front hedge, would have a harmful impact on the character of the area and be contrary to the Council's Local Plan policies. The Inspector also agreed that the proposal would not offer satisfactory outdoor amenity space for future occupants in terms of quality, usability or privacy as it would be open to public views, as it is located to the side of the building behind car parking spaces.

The Inspector did not pursue further comments from other parties on the unsigned section 106 agreement submitted by the appellant to address mitigation on the Thames Basin Heaths SPA due to the reasons for dismissal set out above.

DECISION APPEAL DISMISSED

1.3 6 Church Avenue, Farnborough.

Against the refusal of planning permission for "demolition of side extension and outbuilding and erection of one detached three-bedroom house with attached garage and new access to highway for existing property (18/00697/FULPP refers).

Planning permission was refused under delegated powers for the following reasons:

- 1 The proposed development, by reason of the excessive width and footprint of the proposed dwelling relative to the restricted size and shape of the plot in which it would be sited, would result in a cramped and contrived form of development in a prominent location, which would be at odds with the established character of the area and to its detriment. The proposed dwelling would also have a detrimental impact upon the privacy and amenity of the of the occupiers of 6 Pirbright Road by reason of the positioning of the rear-facing first floor windows of the new property relative to the boundary. The proposal would therefore constitute an unacceptable overdevelopment of the site contrary to the provisions of Rushmoor Core Strategy Policies CP1 and CP2 and "saved" Local Plan Policy ENV17; the Council's adopted "Housing Density and Design" and "Sustainable Design and Construction" Supplementary Planning Documents, April 2006 and the National Planning Policy Framework/Practice Guidance. Regard has also been had to policies D1 and DE11 of the Rushmoor Local Plan Draft Submission 2017.
- 2 The proposed development threatens prominently located amenity trees worthy of retention by reason of the inappropriately close location of the new dwelling to these trees. This will necessitate the canopies of the trees to be cut back to accommodate the development, thus reducing their amenity value, and is then likely to require regular and otherwise unnecessary maintenance

works to these trees to maintain light into dwellinghouse, to the detriment of the trees' amenity value. The proposal is contrary to saved Policy ENV13 of the Rushmoor Local Plan Review and to Policy NE3 of the emerging Rushmoor Local Plan.

- 3 The proposed development makes no provision to address the likely significant impact of the additional residential unit on the objectives and nature conservation interests of the Thames Basin Heaths Special Protection Area. The proposals are thereby contrary to the requirements of retained South East Plan Policy NRM6, Rushmoor Core Strategy Policies CP13 and CP15, and emerging Rushmoor Local Plan Policies NE1 and NE4.
- 4 The proposals fail to provide details of sustainable energy performance measures as required by adopted Rushmoor Core Strategy Policy CP3 and emerging Rushmoor Local Plan Policy DE1.
- 5 The proposals fail to provide details of appropriate surface water drainage for the development as required by adopted Rushmoor Core Strategy Policy CP4 and emerging Rushmoor Local Plan Policy NE8.

In dismissing the Appeal, the Inspector broadly agreed the Council's reasons for refusal in respect of the impact upon the character and amenity of the area and the impact upon amenity trees, commenting that :

"I conclude that the development would result in significant harm to the character and appearance of the area, including a potential adverse impact upon trees protected by Tree Preservation Order. The proposal, therefore, conflicts with Policies DE1, DE11 and NE3 of the LP. The policies, when taken together and amongst other things, require new development to improve the quality of the built environment including high quality design that respects the character and appearance of the local area, takes account of established and adjacent building lines, scale, massing, layout and the street scene, and will not permit adverse effects on existing trees worthy of protection."

The Inspector also supported the Council's reason for refusal in respect of impact upon the Thames Basin Heaths Special Protection Area.

The Inspector did not support the Council in its concerns over the loss of privacy and amenity at the adjoining property 6 Pirbright Road. He commented that the different alignment of the building lines of the property would ensure that the only direct relationship between the habitable windows of the proposed development would be with the side windows of 6 Pirbright Road. In that regard, the provision of an appropriate boundary treatment would prevent any direct overlooking between the ground floor windows following the removal of the hedge, whilst there is only a high level window in the first floor side elevation of 6 Pirbright Road which would prevent any direct overlooking between the upper floors of the properties or the rear garden of the proposed dwelling.

The Inspector noted that the Council did not seek to defend its fourth reason for refusal in respect of energy efficiency as the currently adopted policy does not

replicate the requirements of Rushmoor Core Strategy Policy CP3.

The Inspector considered that the Council's fifth reason for refusal in respect of provision for SUDS could have been dealt with by means of a planning condition, were he minded to allow the appeal.

DECISION APPEAL DISMISSED

2. Recommendation

2.1 It is recommended that the report be **NOTED**.

Tim Mills
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