

Appeal Decision

Hearing held on 20 December 2016

Site visit made on 20 December 2016

by David Cliff BA Hons MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9th February 2017

Appeal Ref: APP/Y3615/W/16/3158653

Thatchers Hotel, Guildford Road, East Horsley, Surrey KT24 6TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full and outline planning permission.
 - The appeal is made by Surya Hotels against the decision of Guildford Borough Council.
 - The application Ref 15/P/02354, dated 1 December 2015, was refused by notice dated 14 March 2016.
 - The development proposed is part full, part outline application for the substantive demolition of the hotel buildings and change of use of the retained parts from hotel use (C1) to residential use (C3) (full application) and the erection of dwellings (outline application) to provide a total of up to 49 new dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst the planning application form refers to the site as the *Ramada Jarvis Hotel*, it was agreed at the hearing that the correct description is the *Thatchers Hotel*. This is reflected in the site address I have used in the banner heading above. The appellant has also confirmed that the appeal is proceeding in the name of Surya Hotels.
 3. Although the application form states that the proposal is in outline with approval being sought for all matters of detail, it has subsequently been clarified that the application is hybrid in form, seeking full planning permission for the change of use of the retained parts of the existing buildings from hotel to residential use and seeking outline permission for the erection of dwellings, to provide up to 49 dwellings in total. The outline component includes details of access to be considered as part of the application with details of layout, scale, appearance and landscaping reserved for future consideration. Although details of layout are reserved, drawings showing alternative illustrative layouts are included in the Design and Access Statement, along with drawings indicating 'developable' areas of the site in the Arboricultural Impact Assessment (September 2016). I have considered these drawings solely on the basis that they have been submitted for illustrative or indicative purposes.
 4. An amended plan showing a revised access road layout has been submitted with the appeal. Whilst this amended plan slightly alters the route of the access road in order to allow for the retention of an existing tree, it does not
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alter the actual position of the proposed vehicular access on to Guildford Road. I do not consider that the revision would prejudice the interests of interested parties. I have consequently considered the proposal on this basis.

5. Following the hearing, in accordance with an agreed timetable, the appellant submitted three alternative S106 agreements. I return to consider these later in the decision.

Main Issues

6. The main issues are:

- i) Whether or not the proposal would be inappropriate development in the Green Belt,
- ii) The effect of the proposal on the openness of the Green Belt;
- iii) The effects of the loss of the existing hotel, including whether it can be viably retained and the effect of its loss on tourism and the local economy;
- iv) The effect upon the character and appearance of the area with particular regard to the implications for existing trees;
- iv) Whether or not the scheme makes appropriate provision for affordable housing and education infrastructure (s106 obligation matters); and
- vii) If the development is inappropriate within the Green Belt, would this harm, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal?

Reasons

7. It is common ground that the Council cannot demonstrate a five year supply of land for housing, as is required by the Framework. It follows from paragraph 49 of the Framework that relevant policies for the supply of housing cannot be considered to be up-to-date. The Council's Monitoring Report 2015/16 identifies a five year supply of 2.1 years. It states that in 2015/16 there were 388 new home completions, which although higher than previous years, is some way short of the identified objectively assessed housing need of 693. The appellant argues that the shortfall would be even greater given the uncertainty regarding the merits of the sites including within the Council's Land Availability Assessment. The appellant argues that, given this uncertainty, the five year housing supply could be as low as 1.2 years. In either case, I consider there to be a very significant shortfall.
8. The proposal would provide for up to 49 new houses, of which up to 17 would be affordable dwellings. In the context of the Council's shortfall in the supply of housing, the scheme would make a substantial contribution to which I give considerable weight.

Inappropriate development and openness

9. The whole of the site is located within the Green Belt. The appellant and the Council agree that the change of use of the retained parts of the Frank Chown building would not be inappropriate development. However, they disagree on

the issue of whether the proposed new build residential development would be inappropriate within the Green Belt.

10. Policy RE2 of the Guildford Borough Local Plan 2003 ('the Local Plan') sets out general principles for determining inappropriate development in the Green Belt. However, paragraph 89 of the National Planning Policy Framework ('the Framework') sets out further circumstances where development would not be inappropriate. This includes the *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*
11. Therefore, whilst policy RE2 is consistent with the Framework in terms of its general aim to protect Green Belt openness, it is not wholly consistent with the Framework in terms of the forms of development that may not be regarded as inappropriate development. Taking account of paragraph 215 of the Framework, I have given more weight to the provisions of the Framework in this regard. The parties also refer to Local Plan policy RE3 (regarding identified settlements in the Green Belt) but agree that this is not consistent with the Framework, which should carry more weight. The appellant also does not rely on this policy in support of the development.
12. Policy RE2 also has the effect of restricting the locations where housing may be developed and therefore I consider that it should be regarded as a relevant policy for the supply of housing in this case in the context of paragraph 49 of the Framework. This has a bearing on my overall planning balance carried out later in the decision in accordance with paragraph 14 of the Framework.
13. The proposed development would be substantial involving up to 44 new build dwellings (in addition to the detailed change of use element providing 5 dwellings) which I consider would be of a scale that would represent more than limited infilling. However, I am satisfied that the proposal would amount to the redevelopment of a previously developed site, the Framework's definition for which includes the curtilage of the developed land. The appellant has sought to demonstrate how the floor area of the proposed new build dwellings could be less than the floor area of the existing hotel buildings to be demolished. In one respect this evidence indicates how a detailed scheme could be progressed with a net reduction in floor area, and therefore the amount of building on the site.
14. Nevertheless, I consider that such a quantitative comparison between the amount of existing and proposed buildings on the site does not necessarily indicate that there would be no adverse impact upon openness. In this case, whilst details of layout are reserved, the illustrative information (including four possible layouts provided in the Design and Access Statement), indicates that the proposed development would be likely to result in a significant expansion of the existing built envelope upon the site, including to the south and east of the existing buildings in areas where there are currently no buildings. Whilst there are areas of hard standing beyond the existing buildings, these have a much lesser impact on openness than built development. No illustrative details have been provided of how a layout could be achieved without resulting in a significant expansion of the overall built envelope upon the site. Therefore, from the information before me, I consider that the proposed development would be likely to adversely impact upon the openness of the Green Belt.

15. I have had regard to the appeal decision¹ at Builders Yard, Woodhill. However, in that case the Inspector noted that the proposal would result in a concentration of development into two main blocks rather than the spread of built form that exists at present. She was also satisfied that the two proposed dwellings could be accommodated without harm to the openness of the Green Belt.
16. In this case, I am not satisfied that it has been demonstrated that the proposed new dwellings could be accommodated within the site without having a significantly greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. Whilst details of layout are reserved, from the information before me the proposed development is likely to result in a much less contained form of development than currently exists. This would result in significant erosion of the openness of the Green Belt.
17. I have also considered the appeal decision² for a residential scheme at Bell and Colvill, Epsom Road, West Horsley. In that case there was an overall reduction in floor space and volume of the buildings along with a reduction in the amount of hard standing and closely parked cars, leading the Inspector to conclude that the effect on openness would be no worse. The Inspector also noted that the new houses would extend further north than the existing buildings, however he went on to say that this would not lead to encroachment in to the countryside as the site is well contained and the proposal would not extend beyond what is previously development land. I have not been provided with drawings of that appeal scheme. However whilst the current appeal site represents previously developed land, the openness of the southern and eastern portions of the site into which the proposed development is likely to extend to a significant degree, would be visible in views from the surrounding area. Those areas free of buildings make a significant contribution to Green Belt openness in this location. Therefore, I do not consider that my concerns in this regard are inconsistent with the findings of the Inspector in the Bell and Colvill decision.
18. Even should a condition be imposed restricting the floor area of the new build development, this would not resolve my concern that the proposed development would result in harm to openness due to the likely extension in the overall built envelope on the site.
19. For the above reasons, the proposal would not fall within any of the exceptions to inappropriate development set out in the Framework. It would therefore amount to inappropriate development in the Green Belt. The harm arising to the Green Belt, including the significant adverse impact on openness carries substantial weight in accordance with paragraph 88 of the Framework.

The loss of the existing hotel

20. Policy T4 of the Local Plan seeks to safeguard hotels and other overnight accommodation. It states that the loss of hotels will be resisted unless equivalent facilities are first made elsewhere or where it can be demonstrated

¹ APP/Y3615/A/12/2188702

² APP/Y3615/W/16/3154084

that the retention of the facility has been fully explored without success or the site is unsuitably located.

21. The appellant says that policy T4 has the effect of limiting housing supply. I acknowledge that this may indirectly be the case by preventing proposals seeking a change of use from hotel to residential use. However, I consider that policy T4 is generally consistent with the aims in paragraph 28 of the Framework to support a prosperous rural economy, including tourist and visitor facilities. I have therefore attached substantial weight to this policy.
22. The proposal does not make provision for equivalent facilities elsewhere. Whilst the appellant says that there is sufficient accommodation capacity elsewhere, my interpretation of the policy requirement is that actual provision has to be made elsewhere to meet the test, rather than for there to be existing provision available elsewhere. The appeal proposal does not make any such provision.
23. From the information provided to me, there appears to be a healthy and sustained demand for hotel accommodation in the area although I acknowledge that there is not detailed quantified evidence in respect of the supply and demand for visitor bed space. However, the Surrey Hotel Futures report of 2015 (for Surrey County Council) found that there is a significant market demand for further hotel provision in the Guildford area. Although this document has not been the subject of any examination, I have given it considerable weight in providing an indication of overall trends regarding the supply of and demand for visitor accommodation.
24. I accept the Council's argument regarding the role that tourism plays to the economy in the area and that a shortfall in hotel and other overnight accommodation would be likely to have an adverse impact on this economic role. I also have had regard to the existing and proposed tourist facilities in the area, creating a demand for overnight accommodation, including the recently permitted Grange Park Opera facility which would be located in the vicinity of the site.
25. Policy T4 includes a test for whether the retention of the hotel has been fully explored without success. The declining occupancy rates of the hotel (which are significantly below the average for Surrey as a whole) and the fact that the hotel has changed hands several times in recent years indicate that the hotel has struggled as a business. However, this does not necessarily show that the hotel is unable to be successfully retained in the future. Although policy T4 does not require details of any marketing to be carried out, I consider that the lack of realistic interest arising following marketing can be helpful in demonstrating that a facility is not able to be viably retained. This is particularly so in this case given the Council's argument that an alternative hotel offer at this site may prove to be a more attractive and viable business than the existing facility.
26. With regard to the second test, based on the information provided and my observation of parts of the hotel at my site visit, it appears that the existing hotel would benefit from refurbishment and modernisation to improve the existing facilities, particularly in the older Frank Chown Building. It is therefore likely that the decline in the hotel's occupancy rates to well below

the average for area and the relatively low room rates in comparison to other hotels, can be linked to the current standard of accommodation and facilities at the hotel.

27. The appellant argues that the investment required to modernise the hotel would not be viable. Estimated figures are provided for the cost of upgrading the facilities although the full justification for these figures has not been provided. Nevertheless, I consider that it is likely that the investment required to upgrade the facilities would be significant. I acknowledge the pressures faced by hotel operators in achieving profitability, but in the context of the overall expected growth in tourism, I am not persuaded from the evidence before me that the required investment would not be viable. The information provided on viability is based on increases in the average room rate to £64.53 but there is no indication of whether a higher average room rate could be achieved following refurbishment.
28. The absence of a marketing exercise makes it more difficult to determine whether the hotel would be a viable operation following investment. I note that the appellant states that the existing hotel would not lend itself to refurbishment to other hotel types such as a boutique hotel, though there is no detailed evidence to support this claim. There is also no detailed evidence to suggest that the recent referendum decision on European Union membership would cause difficulties to the tourism and hotel sectors.
29. The Surrey Hotel Futures Study finds that there is clear potential for, and in many cases, a need for investment in the upgrading, expansion and development of existing hotels, including to a 5 star or boutique style of hotel. There are not precise details of the forecasts for future hotel and other overnight accommodation, though from the information available the trends appear to show an increased demand for accommodation. The applicant refers to other hotels that have opened in the area, others that are being upgraded, along with hotel proposals that are in the pipeline, as well as the growth of alternative accommodation types. Nevertheless, from the information before me it is not certain that the overall demand would be met. I also note that other hotels have closed in the area.
30. The appellant states that there is sufficient surplus to absorb the loss of the accommodation at the appeal site. I am mindful, however, of the differing levels of occupancy experienced by hotels across the week, with some days being busier than others. It also appears from the information available that many hotels are running near capacity at peak times.
31. In relation to the remaining test in policy T4, it has not been shown to me that the existing site is unsuitably located in terms of traffic impact, noise or other adverse effects.
32. Both main parties refer to a recent appeal decision³ for improvements to the Manor House Hotel in Guildford. In that case, whilst the Council questioned the evidence to support the applicant's case regarding need, the Inspector gave significant weight to the apparent shortfall in and the increasing demand for visitor bed spaces in the Guildford area. My concerns are consistent with such findings. Whilst the Council refused the planning application, this was on

³ APP/Y3615/W/16/3146431

the basis of it considering that very special circumstances did not exist that outweighed the harm to Green Belt openness.

33. The appellant also refers to the recent grant of permission by the Council for the change of use of the Asperion Hotel to residential use. I note the similarities in that case to the current proposal including no marketing being carried out, decreasing trade at the hotel and an alternative hotel located in proximity to it. However, that hotel was much smaller than in this case and therefore the effect of its loss would be less in terms of tourism and economy. I must in any event determine the current appeal on its own merits taking account of the evidence before me.
34. Overall, from the information before me it has not been satisfactorily demonstrated that the proposal would be in accordance with policy T4. The loss of the existing facility would be contrary to the Council's aims of supporting tourism and the local economy, including providing an adequate supply of overnight accommodation.

Effect upon existing trees

35. At the Hearing the Council confirmed that the third reason for refusal on its decision notice, concerning the loss of three protected trees, is no longer applicable. This follows the submission of revised drawings by the appellant showing alterations to the alignment of the proposed access road and the indicative layout of the proposed houses. My consideration therefore focuses on the Council's fourth reason for refusal regarding the potential loss or damage to the existing trees located adjacent to the southern boundary of the site.
36. The existing trees adjacent to the southern boundary of the site collectively make a positive contribution to the semi-rural character of the area. The indicative details show a buffer between the nearest dwellings and this row of trees. The rear gardens of some of the proposed dwellings would be likely to partly shaded by some of the trees. Nevertheless, I consider that it would be possible at the reserved matters stage for a scheme to be designed in this southern part of the site that both protects the existing trees during construction and would not result in future pressure for them to be either removed or significantly harmed.
37. I therefore find that the proposal would satisfactorily accord with the relevant tree protection aims of policies G1(12) and NE5 of the Local Plan.

Planning Obligations

38. Three alternative S106 agreements are before me, the issue of dispute between the parties being whether the primary and secondary education contributions being sought are compliant with the tests contained within Community Infrastructure (CIL) Regulations 2010 (and paragraph 204 of the Framework), with particular regard to whether they are directly related to the development and therefore necessary to make the development acceptable in planning terms. The Council has confirmed that the educational contributions would be consistent with the pooling restrictions in CIL Regulation 123(3)

39. The first alternative obligation provides for education contributions to named schools. Nevertheless, I share the concerns of the appellant in this respect, that the two named schools are not necessarily those that will provide for children living at the proposed development, given their admission criteria and location in relation to the appeal site. The education obligations in this respect are not therefore directly related to the development and therefore not necessary to make the development acceptable in planning terms.
40. The second alternative obligation, does not identify particular primary and secondary schools, instead allowing for specific projects that would need to be agreed with the County Council prior to the submission of any reserved matters. I am also concerned with this approach as there are no details before me in this context of the measures or improvements that would be secured by the contributions. On this basis, I cannot be satisfied that the relevant aspects of the obligation are relevant or necessary to make the development acceptable in planning terms.
41. I therefore consider that neither of the two alternative obligations, with regard to education, meet the relevant tests in the CIL Regulations and paragraph 204 of the Framework.
42. Each of the obligations provide for affordable housing to which the Council has confirmed it has no objections (the third obligation does not include any education provision). I am satisfied that the obligations in this respect would provide for affordable housing in accordance with policy H11 of the Local Plan. The relevant part of the obligations would be fairly and reasonably related to the proposed development and would pass the statutory tests. I have given significant weight to the provision of affordable housing.
43. On this basis, the obligations relating to education fail to meet the tests set out in CIL Regulation 122 and I am unable to take them into account in determining the appeal. However, I have given significant weight to the obligations for affordable housing.

Other matters

44. The site is allocated for residential development, to be inset from the Green Belt, in the emerging Guildford Local Plan. Regulation 19 consultation took place in June 2016 which the Council says resulted in over 32000 comments. A further targeted consultation is proposed for summer 2017. Therefore, the emerging Local Plan carries very little weight. The site is also being considered for residential redevelopment as part of the emerging East Horsley Neighbourhood Plan (for a lower number of dwellings than the maximum proposed by the appeal scheme). However, this plan is still at an early stage of formulation and is yet to put before an Independent Examiner. It therefore also currently carries very little weight.
45. The site is located within the 5km to 7km buffer zone of the Thames Basin Heath Special Protection Area (SPA). Natural England does not object to the proposals on the basis of the scheme being under the threshold for new dwellings likely to have a significant effect on the SPA at this range of distance. From the information before me, I do not consider that the

proposed development would be likely to have a significant impact on this European protected site.

46. Taking account of both the functional and spatial separation distance, I do not consider it likely that the proposed scheme would have any adverse effect upon the setting of the Grade II listed Horsley Towers.

Planning Balance and Conclusion

47. I have found the proposal to represent inappropriate development which would have an adverse impact on the openness of the Green Belt. In accordance with the Framework I have given this harm substantial weight. The appellant has not advanced any very special circumstances, having considered instead that the development would be appropriate in the Green Belt. I have also found harm to arise from the loss of the existing hotel facility.
48. Notwithstanding that the appellant has not advanced any very special circumstances, I have given the provision of new housing, including affordable housing, considerable weight. However, this would not clearly outweigh the harm resulting to the Green Belt and the harm arising from the loss of the hotel facility. In reaching this conclusion, I have taken into account the Government's Planning Practice Guidance which states that *unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the 'very special circumstances' justifying inappropriate development on a site within the Green Belt.*
49. I have found that policy RE2 of the Local Plan has the effect of restricting the locations where housing may be developed and therefore it should be regarded as a relevant policy for the supply of housing in this case. It is not wholly consistent with the Green Belt Policy set out in the Framework. It is therefore not up-to-date, though its overall aims are generally consistent with the Framework. I have found that the proposal development is not in accordance with either policy RE2 or the Green Belt aims of the Framework.
50. In circumstances where relevant policies are out-of-date, the Framework indicates that permission should be granted, unless there are specific policies in the Framework (such as land designated as Green Belt) which indicate that development should be restricted. Given that very special circumstances do not exist, Green Belt policy indicates that development should be restricted in this case. Overall, therefore, the proposal does not represent sustainable development. It is contrary to the Local Plan and material considerations do not indicate that the proposal should be determined other than in accordance with the development plan.
51. Therefore, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Lee Melin	Regional Director, Lanpro Services Ltd
Stuart Parsons	Divisional Director, Fleurets

FOR THE LOCAL PLANNING AUTHORITY

Kelly Jetmwa	Senior Planning Officer
Laura Howard	Principal Policy Officer
Tim Hulman	Tree Officer
Melanie Harding	School Commissioning Officer, Surrey County Council
Diana Roberts	Tourism and Marketing Information Office

INTERESTED PARTIES

Robert Taylor	East Horsley Parish Council
Nigel Armstrong-Flemming	Local Resident
David Foot	Local Resident
Philip Markley	Local Resident
Julian Tolley	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Potential Floor Areas and Dwelling Mix document along with the DCLG Technical Housing Standards – Nationally Described Space Standard
2. Surrey Hotel Futures Study 2015
3. Guildford Borough Monitoring Report 2015/2016 (October 2016)
4. Total Accommodation Stock document
5. Extract from Guildford Borough Land Availability Assessment (Site Reference 2044)
6. Appeal Decision APP/Y3615/W/16/3147476 (Goodhart-Rendel Community Hall)
7. Court Judgement – St Modwen Developments Limited and (1) Secretary of State for Communities and Local Government (2) East Riding of Yorkshire Council and (3) Save our Ferriby Action Group)

DOCUMENTS SUBMITTED FOLLOWING THE HEARING

The following were submitted in accordance with the timetable agreed at the hearing

1. Three alternative S106 obligations

2. Letter from the appellant commenting on high court judgement (St Modwen Developments v SSCLG & ERYC [2016])
3. Email from the Council regarding agreed drawing numbers