
Appeal Decision

Site visit made on 12 June 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 6 July 2017

Appeal Ref: APP/Y3615/W/17/3171263

Poyle Park Cottage, Poyle Road, Tongham Surrey GU10 1BS

- 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 Mr L Howie against the decision of Guildford Borough Council.
 - The application Ref 16/P/02121, dated 17 October 2016, was refused by notice dated 16 February 2017.
 - The development proposed is four new detached four bedroom dwellings following demolition of an office and storage buildings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character of the area, including the Area of Great Landscape Value;
 - the effect of the proposed development on protected species;
 - whether the proposed development appropriately addresses nature conservation interests in the area, specifically in respect of the Thames Basin Heaths Special Protection Area (SPA); and,
 - the effect of the proposed development on highway safety, with particular regard to intervisibility at the access onto Poyle Road.

Reasons

Background

3. Development on the appeal site which is located within the countryside beyond the Green Belt is restricted by policy RE4 of the Guildford Borough Local Plan 2003 (LP). The Council considers that policy RE4 is inconsistent with the National Planning Policy Framework (the Framework) and ascribes it very little weight. I agree that the weight attributable to any harm from the proposal caused by conflict with policy RE4 should be significantly limited. In addition, the Council accepts that it cannot demonstrate a 5-year supply of deliverable housing sites. Paragraph 49 of the Framework states that in these circumstances, relevant policies for the supply of housing should not be considered up-to-date.
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4. Paragraph 14 of the Framework says that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

The character of the area

5. The Council raises no objection in terms of the location of the proposal in relation to services and facilities, nor does it describe it as being physically isolated. Its concern is focused on the number of houses proposed, their arrangement on the site, as well as their bulk and mass, and their effect on the character of development and landscape of the surrounding countryside.
6. Much of the appeal site, with its clipped hedges, managed trees, and closely mown lawns resembles a back garden. As such it contributes to the undeveloped gap between the sporadic and loose ribbon of development of which it is a part and the entry to the village of Tongham to its west. While it is formally enclosed, its open and green character reflects the fields in the open countryside to the north, south, and west of the site, which is designated in the LP as an Area of Great Landscape Value, the distinctive character of which, LP Policy RE6 seeks to protect.
7. The proposal would fill the site with houses and substantially reduce this gap by introducing a consolidating form of development towards the edge of the village, blurring the legibility of its distinctive edge. This would undermine the distinctive character of the rolling countryside beside Tongham. I appreciate that the layout would reuse much of the existing driveway and there would be space between the detached houses. However, compared to its rural surroundings, the proposal would have a tighter, more suburban grain of development, completely at odds with the far looser pattern of development in the countryside surrounding it.
8. Houses in the village further along Poyle Road tend to face directly to the road, and the buildings in the surrounding countryside tend to either front the road or where they are sited behind it, they are relatively isolated or connected with agricultural use. The proposed cul-de-sac layout would be incompatible with these surrounding patterns of development. I note the Council's concern about the relatively large footprints and heights of the houses; however, I identify no incompatibility from them with the scale of the houses I saw in the surrounding area. The appellant points out that the proposal would replace a car sales site which might become detrimental to its setting, however, there is no evidence to support this, and it does not outweigh the harm identified above.
9. I conclude on this issue that the proposed development would diminish the landscape character of the AGLV, and its grain and pattern of development would harm the character of the area. It would be in conflict with LP policies G5 and RE6 which protect the distinctive landscape character of the area and require development to respect established street patterns and building lines.
10. It would also conflict with paragraphs 17 and 58 of the Framework which say that planning should recognise the intrinsic character and beauty of the countryside and that development should respond to local character. It would

be at odds too with the Planning Practice Guidance¹ which advises that development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development.

Protected species

11. The Council refers to the Surrey Wildlife Trust (SWT) which is critical of the appellant's bat survey. While I note the survey's shortcomings, the Council does not offer any substantive evidence which suggests the presence of bats. In respect of bats, and on the evidence before me, I am unable to conclude that there is a reasonable likelihood of them being present on or near the site and that there is a risk they may be adversely affected by the proposal. In these circumstances, I consider a precautionary approach with the application of a suitably worded condition would be appropriate.
12. However, the SWT has identified records of slow worms and great crested newts within 1km of the site and highlights several ponds within 500m. I appreciate that Circular 06/2005² advises that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. However, it also states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by a proposed development is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
13. The appellant raises no objection to providing an ecological report. However, in the absence of an ecological survey and report, and in the light of the reports above, and the proximity of the neighbouring ponds, it is not clear whether the proposal would adversely affect any great crested newts or other protected species that may be present on the site. Moreover, a planning condition would not in these circumstances be appropriate.
14. I consider that it is reasonable to seek an ecological survey given the presence of ponds within 500m of the site, and this approach would accord with Natural England's Standing Advice³ which states that surveys should be undertaken if there is a pond within 500m of a development. In the absence of an ecological survey, I consider that it cannot be demonstrated that the proposed development would not have an adverse impact on protected species, with particular regard to great crested newts. Accordingly, the proposal would be in conflict with LP Policy NE4 which says that planning permission will not be granted for development that would be liable to cause any demonstrable harm to a protected species, as well as section 11 of the Framework insofar as it seeks to protect biodiversity.

Thames Basin Heaths Special Protection Area

15. The appellant has indicated that he is willing to enter into an agreement under section 106 of the Town and Country Planning Act 1990 to mitigate any impact of the proposed development upon the Thames Basin Heaths SPA. This would make contributions towards the cost of upgrading and maintaining Suitable

¹ Planning Practice Guidance, paragraph:007, ID 26-007-20140306

² Circular 06/2005 Biodiversity and geological conservation – statutory obligations and their impact within the planning system

³ Natural England - Great crested newts: surveys and mitigation for development projects, 2015

Alternative Natural Green Space and a Strategic Access Management and Monitoring contribution in order to comply with the requirements of policies NE1 and NE4 of the Local Plan and saved policy NRM6 of the South East Plan which seek to prevent harm to protected species and habitats.

16. This would also accord with the Conservation of Habitats and Species Regulations which seek to ensure that development does not adversely affect European sites and species. However, I have not received a signed agreement or undertaking which would secure these measures.
17. Therefore, on the evidence before me, and in the absence of mitigation, I cannot be satisfied that the proposal would provide adequate measures to avoid and mitigate its potential adverse effects on the integrity of the SPA, which would place the development in conflict with LP policies NE1 and NE4, and saved policy NRM6 of the South East Plan 2009.

Highway safety with particular regard to intervisibility

18. The tall hedge which encloses the site along Poyle Road is set back from the carriageway by a grass verge. This set-back increases the intervisibility at the point where the access to the development would meet the road. In addition, the appellant has indicated that he controls the land to a substantial distance to both sides of the access. This would enable the hedge to be realigned, if necessary, to increase the intervisibility at the access.
19. I appreciate that any splays might not quite reach the length sought by the Council. However, I observed relatively little traffic on the road. While I appreciate that traffic flow is likely to vary throughout the day, in these circumstances, drivers would be able to move out slightly in the long breaks in traffic. This would significantly improve the sightline to and from the left, while moving away from the access. The road appears to crest to the right hand side a short distance beyond the land in control of the appellant which would reduce the effectiveness of a visibility splay extending beyond it.
20. On the basis of the evidence before me, I can see no reason why a planning condition could not secure effective visibility splays at the access. I am mindful that the lengths of the splays may be less than those sought by the Council. However, I also take into account the absence of evidence suggesting a highway safety problem with the existing access or with the numerous accesses in the vicinity of the site, as well as the limited amount of traffic which would be generated by the proposal, and my own observations on site.
21. In weighing the balance of risk against probability, I conclude that the development would not result in an unacceptable or severe impact on highway safety with particular regard to intervisibility at the access onto Poyle Road. There would be no conflict with saved policy G1(2) of the Guildford Borough Local Plan 2003 (LP) which requires a satisfactory access. Nor would it result in any severe residual, cumulative impacts as described by paragraph 32 of the Framework.

Conclusion

22. As the Council is unable to demonstrate a five-year supply of deliverable housing sites, relevant policies for the supply of housing, notably LP Policy RE4 cannot be considered up to date. The proposal would contribute to meeting some of that shortfall, to which I attach considerable weight. There would also

be some social and economic benefits if the proposed development were to proceed, and the development would not result in an unacceptable or severe impact on highway safety. These benefits weigh in favour of the proposal.

23. Nevertheless, it would harm the character and appearance of the area including the Area of Great Landscape Value and the scenic beauty and qualities of the countryside. It would also risk causing demonstrable harm to a protected species, and it would not provide adequate measures to avoid and mitigate its potential adverse effects on the integrity of the SPA. I conclude that these factors would significantly and demonstrably outweigh the benefits of the proposal. For the reasons given above, and taking account of all matters raised, the appeal is dismissed.

Patrick Whelan

INSPECTOR