
Appeal Decision

Hearing held on 20 June 2017

Site visit made on 20 June 2017

by Alex Hutson MATP CMLI MArborA

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

Decision date: 20 July 2017

Appeal Ref: APP/Y3615/W/16/3165858

Land with frontage to Long Reach, Silkmore Lane and Green Lane West, Long Reach, West Horsley

- 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 Green Reach Ltd against the decision of Guildford Borough Council.
 - The application Ref 16/P/01459, dated 8 July 2016, was refused by notice dated 10 November 2016.
 - The development proposed is change of use from agricultural land to public open space and nature reserve with associated landscaping including a circular walkway, hedge planting and boundary works, new access works, cycle and car parking, interpretation points, benches and bins to facilitate a Suitable Alternative Natural Greenspace (SANG).
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from agricultural land to public open space and nature reserve with associated landscaping including a circular walkway, hedge planting and boundary works, new access works, cycle and car parking, interpretation points, benches and bins to facilitate a Suitable Alternative Natural Greenspace (SANG) at land with frontage to Long Reach, Silkmore Lane and Green Lane West, Long Reach, West Horsley in accordance with the terms of the application, Ref 16/P/01459, dated 8 July 2016, subject to the attached schedule of conditions.

Preliminary matters

2. The Council amended the description of the proposed development from that shown on the application form. The appellant confirmed at the Hearing that the Council's description is the one that I should use. This is reflected in the banner heading above.
3. I have also taken the address of the appeal site from the Council's Decision Notice as this provides a more detailed description of its location than that shown on the application form.

Application for costs

4. An application for costs has been made by Green Reach Ltd against Guildford Borough Council. This application is the subject of a separate Decision.

Main issues

5. I consider that the main issues arising in this appeal are:

- Whether or not the proposal is inappropriate development in the Green Belt;
- The effect of the proposal on the openness of the Green Belt; and
- If the proposal is inappropriate development, whether or not there are other considerations which, together, clearly outweigh the harm to the Green Belt, and any other harm, and which amount to very special circumstances which would be necessary to justify the proposal.

Reasons

Whether or not the proposal is inappropriate development in the Green Belt

6. The appeal site lies within the Green Belt, as defined within the Guildford Borough Local Plan 2003 (Local Plan). It currently comprises a large agricultural field on the edge of the settlement of West Horsley. The proposal seeks to change the use of the land from agricultural to public open space and nature reserve. It also seeks to introduce a mown circular walkway, hedge planting, boundary works, new access works, cycle parking, car parking for up to 24 vehicles, interpretation points, benches and bins.
7. Paragraphs 89 and 90 of the National Planning Policy Framework (the Framework) set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. Paragraph 89 of the Framework relates solely to the construction of new buildings. However, as there would be no new buildings constructed as part of the proposal, it is my view that this paragraph is not applicable in this case. In addition, the proposal does not fit into any of the categories of other forms of development as set out in Paragraph 90 of the Framework.
8. Consequently, the proposal would be inappropriate development in the Green Belt, which Paragraph 87 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that substantial weight should be given to any harm to the Green Belt.
9. The appellant relies heavily on a recovered appeal decision¹ at Land at Tidbury Green Farm, where in that case, the change of use of part of the site from agricultural land to public open space was not considered by the Secretary of State to be inappropriate development in the Green Belt. However, in that case, there were no proposed structures of any kind. Thus, I do not consider it to be wholly comparable to the case I am to consider under this appeal. In addition, the Council has made reference to a number of cases², which would appear to support my view in respect of inappropriate development. Moreover, it is not clear if any of these cases were before the Secretary of State when the abovementioned recovered appeal was determined by him. Having carefully

¹ Appeal Ref APP/Q4625/A/14/2220892 dated 5 November 2015

² *Fordent Holdings Ltd v Secretary of State for Communities and Local Government and Cheshire West and Chester City Council* [2013] EWHC 2844 (Admin); *Regina (Timmins) and another v Gelding Borough Council* [2015] EWCA Civ 10; *R. (on the application of Lee Valley Regional Park Authority) v Epping Forest District Council* [2016] EWCA Civ 404; and *R (on the application of Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2017] EWHC 442 (Admin)

considered the evidence of both main parties, I am more persuaded by the Council's case in respect of this main issue.

10. The Council cites conflict with saved Policy RE2: Development Within the Green Belt, of the Local Plan. This policy sets out that new building will be deemed inappropriate unless it is for, amongst other things, essential facilities for outdoor sport and outdoor recreation, cemeteries and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it. However, this policy is inconsistent with Paragraphs 89 and 90 of the Framework which relate to either the construction of buildings or a closed list of other forms of development considered not inappropriate development within the Green Belt. It also makes no provision for the consideration of any very special circumstances which could outweigh any harm. Thus, having regard to Paragraph 215 of the Framework, I afford it limited weight.

Effect on the openness of the Green Belt

11. Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. The proposal, through the introduction of new access works, cycle and car parking, interpretation points, benches and bins onto land which is currently undeveloped, would inevitably lead to a reduction in the openness of the Green Belt.
12. Nevertheless, these features would be of a design sympathetic to the rural character of the area and would be visually unobtrusive. Furthermore, due to the sloping topography of the appeal site and vegetation around its boundaries, any parked cars would only be apparent from along a short stretch of Long Reach. Moreover, the presence of parked cars would be transitory in nature. I therefore consider that the effects of the proposal on the openness of the Green Belt would be limited. In addition, the proposal would not conflict with any of the five purposes of including land within the Green Belt, as set out within Paragraph 80 of the Framework.

Other considerations

13. Paragraph 17 of the Framework encourages multiple benefits of the use of land in rural areas, recognising that some open land can perform many functions, including for wildlife and recreation. Paragraph 73 of the Framework recognises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Paragraph 81 of the Framework promotes the enhancement of the beneficial use of Green Belts, such as for access, sport and recreation, or to retain or enhance landscapes and biodiversity. In addition, Paragraph 118 of the Framework aims to conserve and enhance biodiversity.
14. The proposal would provide public access. In addition, it would provide a 2.3km circular walk for informal recreation. Furthermore, it would retain all important trees and would create new areas of wildflower meadow, grassy commons and riparian habitat. It would also reinstate and restore substantial lengths of hedgerow. Whilst I note that the proposal would be likely to result in a reduction in the current population of breeding skylarks, this effect would be considerably greater if the appeal site was to return to active agricultural use or was left to naturally regenerate. Moreover, through the introduction of new habitat and its appropriate management, which could be secured through

a suitably worded planning condition, there would be a net benefit for bird species overall and biodiversity in general, as well as allowing the continued opportunity for a skylark population to breed, albeit in a reduced capacity. I also note that this approach appears to be supported by the Surrey Wildlife Trust.

15. Thus, the proposal would achieve the aims and objectives of Paragraphs 17, 73, 81, and 118 of the Framework. I afford substantial weight to these benefits. This is notwithstanding that there are other existing opportunities in the area to access open space. Moreover, I consider that these benefits alone would be sufficient to outweigh the harm to the Green Belt and would therefore provide the very special circumstances necessary to justify the proposal.
16. The appeal site lies within 400m-5km of the Thames Basin Heaths Special Protection Area (TBHSPA). Saved Policy NRM6: Thames Basin Heaths Special Protection Area, of the South East Plan 2009, indicates that new residential development which is likely to have a significant effect on the ecological integrity of the TBHSPA will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects. This includes a requirement for residential development within 400m-5km of the TBHSPA to provide Suitable Accessible Natural Greenspace (SANG). The aim of SANG is to attract people away from the TBHSPA and hence reduce pressure on it. This requirement is reflected in the Council's Thames Basin Heaths Special Protection Area Avoidance Strategy 2009-2016.
17. It is my understanding that the proposal meets Natural England's SANG criteria. In addition, the appeal site is identified within the Council's draft Infrastructure Delivery Plan (IDP), which supports its emerging Local Plan, as a strategic SANG. With the exception of Effingham Common, an existing strategic SANG, it is the only other strategic SANG proposed within the eastern part of the Borough. The Council acknowledges that there is a need to deliver new housing within this part of the Borough. Moreover, that it cannot currently demonstrate a five year housing land supply. In addition, some sites have been identified for housing within the emerging Local Plan which fall within 400m-5km of the TBHSPA and within the catchment area of the appeal site. I am aware that Effingham Common, given its lack of car parking, would be unable to mitigate any future housing development at a distance greater than 400m from it. The Council also accept that this situation is unlikely to change within its timeframes for the adoption of the emerging Local Plan, given the considerable complications surrounding any planning permission required for car parking on common land. Indeed, the Council acknowledges that this matter is unlikely to be resolved for a number of years.
18. It therefore seems to me that, although the weight I afford to the emerging Local Plan is limited on the basis that it is still at an early stage of preparation, the evidence points to a real need for an effective strategic SANG within the eastern part of the Borough to provide TBHSPA mitigation for any new housing, which as the Council acknowledges, is needed and is likely to occur. The proposal would have the ability to provide an effective strategic SANG in the eastern part of the Borough. This lends weight in support of the proposal.
19. In addition, it has been brought to my attention that were I to allow the appeal, the site would provide the necessary TBHSPA mitigation in respect of SANG for a considerable number of new houses associated with a proposal at

the Howard of Effingham School. Whilst this application is currently the subject of an appeal³, and therefore its outcome is unknown, it provides a direct link between the proposal and potential new residential development. The appellant also indicated at the Hearing that the lack of any appropriate SANG in the area is precluding other sites coming forward for housing development, including a site within the appellant's ownership on previously developed land. I have no substantive reasons to suggest that this assertion is incorrect. These matters also lend weight in support of the proposal.

20. Furthermore, it seems to me that the proposal would have the ability to attract people away from the TBHSPA and hence reduce pressure on it generally, even if there was no direct link to any future housing provision.

Other matters

21. I have had regard to the concerns of a number of interested parties, including in respect of loss of agricultural land, flood risk, traffic congestion and highway safety, the character and appearance of the area, trees, crime, flytipping and pollution.
22. The appellant has submitted an agricultural land classification report, based on national data sources, which demonstrates that the land within the appeal site is classified as Grade 4 agricultural land. As such, I am satisfied that the proposal would not result in any loss of the best and most versatile agricultural land as defined by the Framework. In addition, there is no compelling evidence before me to demonstrate that the change of use would jeopardise any agricultural needs of the country on leaving the European Union.
23. I recognise that part of the appeal site falls within Flood Zone 3, according to the Environment Agency's flood map. Nevertheless, the proposal would be classified as water-compatible development according to Table 2: Flood Risk Vulnerability Classification, of the Government's Planning Practice Guidance. In addition, the circular walkway would be sited in a position to allow a walking route outside of the flood zone. Furthermore, there would be no increase in impermeable surfacing within the appeal site and therefore no changes to the existing permeability of it. Thus, I am satisfied that there would be no increase in flood risk.
24. The proposal would inevitably result in an increase in traffic to and from the appeal site. I also note that cars associated with the nearby Horsley Football Club sometimes park on the grass verges along Long Reach. However, the proposal would provide an adequate number of parking spaces to meet the requirements of Natural England. Moreover, the Highways Authority considers the proposal to be acceptable on safety and capacity grounds and, on the basis of the evidence before me, I have no compelling reasons to consider otherwise.
25. The proposal would result in a modest change to the existing appearance of the agricultural land. However, these changes would respect the rural qualities of the area and would make a number of enhancements to the landscape in general. As mentioned above, any car parking would only be visible from along a short stretch of Long Reach and would be transient in nature. I am also satisfied that the proposal would have no detrimental effect on any trees to be retained. On this basis, the change to the character and appearance of the

³ Appeal Ref APP/Y3615/W/16/3151098

appeal site and area would be both sensitive and appropriate to the local context.

26. There is no substantive evidence to demonstrate that the proposal would increase crime or flytipping in the area. Moreover, such issues could be controlled through other environmental legislation or by the police, if necessary. In addition, no evidence of pollution levels in the vicinity of the appeal site has been presented for my further consideration on this matter. In any event, I do not consider that any additional vehicular movements generated by the proposal would affect current or future pollution levels to a significant degree.
27. Consequently, I do not consider that any of these matters weigh against the proposal.

Conditions

28. I have had regard to the planning conditions suggested by the Council. I have amended some of these for clarity, conciseness and to avoid repetition. In addition to the statutory time limit condition, a condition specifying the relevant plans is necessary as this provides certainty. A condition relating to public access is necessary in the interests of securing public access in perpetuity. A condition relating to a management plan is necessary in the interests of ecology and the effective long term management of the site for public use. A condition relating to tree protection is necessary in the interests of character and appearance. The removal of permitted development rights is necessary for the same reason, as is a condition relating to lighting. Those conditions relating to parking and access are necessary in the interests of highway safety. I also agree that a condition relating to cycle parking is necessary in the interests of sustainable transport.

Conclusion

29. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have identified that the proposal would be inappropriate development in the Green Belt as defined by the Framework. In addition, it would cause a modest degree of harm to the openness of the Green Belt.
30. However, as set out above, there are other considerations which would clearly outweigh the harm to the Green Belt and which amount to very special circumstances which would be necessary to justify the proposal. Accordingly, for the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed.

Alex Hutson

INSPECTOR

SCHEDULE OF CONDITIONS:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 5101_300 Rev E; 5101_301 Rev G; 5101_302; 5101_400 Rev E; 5101_401 Rev A; 5010_600; 2766 001 Rev C; and 2766 002 Rev B.
- 3) Following the completion of all the capital works on Phase 1 as shown on the approved plans, the site shall be made available for public use in perpetuity.
- 4) No development shall take place until a SANG Management Plan, including, but not limited to, a scheme of landscape and habitat management and the details and responsibilities of a suitable management body, has been submitted to and approved in writing by the local planning authority. The entire site shall be managed in accordance with the approved SANG Management Plan in perpetuity.
- 5) No development shall take place until details of tree protection measures, in accordance with the relevant British Standard, have been submitted to and approved in writing by the local planning authority. Tree protection measures shall be implemented in accordance with the approved details.
- 6) Prior to the first use of the development hereby permitted, vehicular access and visibility zones shall be provided in accordance with the approved plans. The vehicular access shall be made available for such a use and the visibility zones shall be kept clear of any obstruction above 0.6 metres thereafter.
- 7) Prior to the first use of the development hereby permitted, space for the parking and turning of vehicles shall be laid out in accordance with the approved plans. The parking and turning areas shall be retained and maintained for such purposes thereafter.
- 8) Prior to the first use of the development hereby permitted, details of secure cycle parking facilities shall be submitted to and approved in writing by the local planning authority. Secure cycle parking facilities shall be implemented in accordance with the approved details prior to the first use of the development hereby permitted and shall be retained and maintained for such purposes thereafter.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), no buildings, gates, fences, or any other form of enclosure other than shown on the approved plans or agreed as part of the SANG Management Plan, shall be constructed or erected on the site.
- 10) No lighting shall be installed on the site.

APPEARANCES

FOR THE APPELLANT:

William Smith	AECOM
Philip Scott	Black Onyx Group
David Ardley	Black Onyx Group
Simon Randle	Barrister
Peter Shepherd	BSG Ecology
Ben Croot	LDA Design

FOR THE LOCAL PLANNING AUTHORITY:

Christopher Ward	Bryan Jezeph Consultancy Ltd
BA (Hons), LLM, MRTPI	
Caroline Daly	Barrister
Dan Knowles	Guildford Borough Council

INTERESTED PERSONS:

Catherine Young	West Horsley Parish Council
Cllr David Reeve	Councillor for Clandon and Horsley
Nicola Ogilvie Smals	Dovedale, Long Reach, West Horsley KT24 6ND
Paul Roffey	Long Reach House, Long Reach, West Horsley KT24 6LZ
Clive Phillips	63 Long Reach, West Horsley KT24 6LZ
Janet Ashton	Lavender Tree, Perry Hill, Guildford

DOCUMENTS SUBMITTED AT THE HEARING:

1. Plan 5101_301 Rev G
2. Legal Note on Behalf of the Local Planning Authority
3. Fordent Holdings Ltd v Secretary of State for Communities and Local Government and Cheshire West and Chester City Council [2013] EWHC 2844 (Admin)
4. R. (on the application of Lee Valley Regional Park Authority) v Epping Forest District Council [2016] EWCA Civ 404

5. Regina (Timmins) and another v Gelding Borough Council [2015] EWCA Civ 10
6. R (on the application of Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council [2017] EWHC 442 (Admin)

DOCUMENTS SUBMITTED PRIOR TO THE CLOSURE OF THE HEARING:

1. Appellant's costs application final comments
2. Appellant's response to Legal Note on Behalf of the Local Planning Authority
3. Council's response to the appellant's response to Legal Note on Behalf of the Local Planning Authority
4. Appellant's final comments on the Legal Note on Behalf of the Local Planning Authority