
Appeal Decision

Site visit made on 4 July 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 27 July 2017

Appeal Ref: APP/Y3615/W/17/3169144

Norrels Meadow, Norrels Drive, East Horsley KT24 5DL

- 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 Pelham Reilly against the decision of Guildford Borough Council.
 - The application Ref 16/P/01430, dated 27 June 2016, was refused by notice dated 5 September 2016.
 - The development proposed is erection of a single detached dwelling with associated access and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether sufficient justification has been demonstrated for works affecting trees protected by a Tree Preservation Order (TPO);
 - The effect of the development on the Thames Basin Heaths Special Protection Area (TBHSPA); and,
 - Whether the harm, by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If it is, would this amount to the very special circumstances necessary to justify the proposal.

Reasons

Existing Site

3. The site is a vacant and largely wooded plot on the north-eastern side of Norrels Meadow, and forms a gap in the line of large detached dwellings fronting both sides of the road. The site and the expanse of woodland to the immediate north-east lie within the Metropolitan Green Belt.

4. The development would comprise a modest detached dwelling, located towards the centre of the plot, and associated hardstanding.

Inappropriate development

5. National policy on Green Belt development is set out in the Framework and Paragraph 79 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraphs 87, 89 and 90 should all be read together and consequently, development in the Green Belt is inappropriate (and only permissible under very special circumstances) unless it falls within the closed lists of exceptions set out in Paragraphs 89 and 90. One exception is limited infilling in villages.
6. The existing building pattern is contiguous with the settlement of East Horsley. As such, I conclude that the existing dwellings on Norrels Meadow lie within the village. The plot has a road frontage of some 80 metres which would be equivalent to about three plots on this road. The term limited is not defined in the Framework but I conclude that the gap in the building pattern is of a size commensurate with the term *limited infill*. The fact that the development would comprise one dwelling on a generous frontage, does not alter my reasoning in this regard.
7. Interested parties have queried whether the case law¹ used by the appellant to support the case is relevant to this appeal in relation to village infill plots. However, although I appreciate that in that case the site was surrounded by built development on all four boundaries, there is nothing before me to indicate that a site with development on three sides could not also be considered to be an infill site.
8. Furthermore, Policy RE2 of the Local Plan² (LP) allows infilling in villages to the extent specified in LP Policy RE3, although it is restricted to within settlement boundaries. However, the LP predates the Framework by some years and Paragraph 215 of the Framework requires that due weight is given to relevant policies in existing plans according to their degree of consistency with the Framework. In this instance, LP Policies RE2 and RE3 are inconsistent with the Framework which does not distinguish between infilling inside or outside settlement boundaries. Although the evidence before me indicates that in the emerging Local Plan³ the plot is outside the settlement boundary, this carries limited weight. In any case, given the relationship of the appeal site to the immediate building pattern, I consider it would not be unreasonable to allow infilling in principle.
9. The Council has drawn my attention to an appeal on another site⁴. In that instance the site was located outside the settlement boundary and abutted fields to the rear. However, the Inspector found that the appeal site was not obviously part of a linear development and that consequently development on that site would appear as encroachment into the countryside. That would not be the case in this instance, as the site is clearly situated within an established linear building pattern which is visible from the road. As such I give this argument little weight.

¹ Wood v SSCLG and Gravesham BC (2015)

² Guildford Borough Council, Guildford Borough Local Plan adopted January 2003

³ Guildford Borough Council, Proposed Submission Local Plan June 2016

⁴ APP/Y3615/W/16/3153607

10. Accordingly the proposals would not represent inappropriate development in the Green Belt. Consequently, there is no need for me to consider the effect of the proposal on the openness of the Green Belt or very special circumstances.

Protected Trees

11. Evidence before me indicates that the site is covered by two group TPOs⁵. The site is heavily vegetated with large mature trees of various condition, and associated understorey. To the rear of the site, paths lead deeper into the wood. I also noticed that the canopy spread of some trees appeared greater than shown on the tree survey.
12. The survey identifies that the trees fall predominantly in to Categories B and C of the classification given in BS5837:2012⁶. This indicates that they are of average or low quality.
13. One of the B category trees, a mature hornbeam, is scheduled for removal to accommodate the dwelling. This tree has multiple stems and a spreading crown that reaches nearly to ground level. It is described in the survey as a tree of character.
14. When in full leaf the frontage vegetation provides screening into the site from the road, and I did not find the hornbeam particularly visible. However, the hornbeam is one of the most imposing trees within the site and there would be some diminution of the overall extent and form of the woodland group if it was removed which would be apparent from outwith the site. Furthermore, when there is less or no leaf cover on the frontage vegetation, its overall contribution to public amenity would be more apparent. As such, if all the other vegetation on the site was to be retained, I would consider that the contribution made by the hornbeam to the overall amenity value of the group and the woodland character of the area, would be moderate to minor.
15. However, having reviewed the evidence before me, I am not satisfied that tree loss would be limited to the hornbeam. The survey recommends the removal of five further trees as a consequence of their physiological and structural condition, and suggests that another ten require future monitoring or a climbed inspection to review their ongoing health and structural stability. A significant proportion of these are currently providing screening for the hornbeam from the public domain.
16. In addition, given the siting and form of trees on the site, it is highly likely that there would be a need for some pruning of other specimens in order to accommodate construction traffic and operations.
17. Although the appellant argues that future occupiers of the development would elect to live on a wooded and largely shaded site, I am not satisfied that this would necessarily prevent the loss of more trees. The layout shows the woodland canopy would oversail the dwelling on its northernmost corner and be within 5-6 metres of its southernmost corner. Moreover, most of the trees are above 12 metres in height and they would form an almost continuous

⁵ Guildford Borough Council (Land between Norrels Ride and Norrels Drive East Horsley) TPO (No 8) 1989, confirmed on 10 May 1989 & Guildford Borough Council (Land at Norrels Meadow, road frontage, Norrels Drive East Horsley) TPO (No 2) 1994, confirmed on 4 February 1994.

⁶ Trees in Relation to Construction

screen of vegetation around the site. I conclude that for a large part of the year the trees would overshadow a significant proportion of the dwelling, its windows and associated amenity areas, on a daily basis. I am not satisfied that there would be sufficient sunny amenity areas for future occupiers to move to, even in high summer, as the appellant suggests.

18. Furthermore, the removal of the hornbeam would render the remaining trees more susceptible to wind damage, and the proximity of tall trees to a dwelling in stormy weather is likely to cause anxiety for the dwelling's occupiers, particularly given some of the trees are in poor condition.
19. The appellant argues that the TPO would remain in place and approval would be needed for further felling or lopping. However, the TPO would not necessarily prevent further works or tree removal if repeated arguments were made in relation to the living conditions of future occupiers or the perceived threat from trees moving in high winds. It is also unreasonable to allow a development which is highly likely to result in repeated applications for such work.
20. The appellant also argues that the woodland requires management. However, I noticed oak seedlings growing in such open grass areas as there are, as well as the pioneer species noted in the survey, indicating there is natural regeneration. In any case, the natural cycle of woodland decay and regeneration does not necessarily require intervention.
21. Whilst I concur that tree pruning can be routine in urban and peri-urban areas, as argued by the appellant, this woodland retains a distinct naturalistic appearance and its contribution to the locality is largely based upon its natural unmanaged state and will by its very nature, contain trees of varying form and condition, which is entirely in keeping with its location next to a much larger woodland area. Furthermore, the presence of trees with leaning and asymmetric form is also entirely appropriate on this site. In any case, the wounds from repeated pruning works allow the entry of pathogens and can have an adverse effect on the trees' longevity and future health.
22. As such, I conclude that the need for a single dwelling is not sufficient to outweigh the amenity value of the hornbeam and other trees likely to be lost, or outweigh the development's effect on the special character of the woodlands, or the woodland character of the area, which is the stated aim of the TPOs. As such, sufficient justification for tree loss has not been demonstrated.
23. In the light of the above, I conclude that the development would be contrary to LP Policy NE5 which states that development will not be permitted if it would damage or destroy trees protected by a TPO, unless the need for development outweighs the amenity value of the protected trees.

Thames Basin Heaths Special Protection Area

24. The appeal site lies within the buffer zone of the Thames Basin Heaths Special Protection Area (TBHSPA). The Council's 3rd reason for refusal states that there was insufficient information to show that the development would not have a significant effect on the TBHSPA.
25. The evidence before me indicates that the Council and the appellant are satisfied that potential damage and disturbance to the habitat and protected

species could be mitigated by way of a financial contribution secured through a Section 106 agreement (S106). This would be in line with the Council's TBHSPA Avoidance Strategy (January 2016) and contribution would be used to upgrade a Suitable Alternative Natural Green Space in line with the conservation aims of LP Policy NE1 and LP Policy NE4.

26. I am satisfied that a planning obligation could overcome this reason for refusal, and there is a completed S106 before me. However, I do not consider the provisions of the S106 would outweigh the particular harm I have identified above, nor overcome the planning policy objections to the proposal. Therefore, as I have dismissed the appeal for other reasons I have not considered these matters further in my decision.

Other matters

27. Interested parties have raised concerns in relation to drainage, precedent, increased traffic and the importance of the woodland habitat. However, as I have found harm in respect of the main issues it is not necessary for me to consider these matters further.

Planning balance

28. There is no dispute between the parties that the Council is unable to demonstrate a five year housing supply. Consequently LP Policy RE2, which is restrictive in respect of housing supply, is considered out-of-date and Paragraph 14 of the Framework is engaged.
29. I appreciate that the development would make a limited contribution to the local housing shortfall, bring limited economic benefits to the area and would also be reasonably close to local amenities. The dwelling's construction would also deploy some sustainable technology, although there is nothing before me to indicate that the intended measures would be in any way innovative.
30. However, I conclude that the adverse impacts of the development I have identified above would significantly and demonstrably outweigh those limited benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

31. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and that therefore the appeal should be dismissed.

Amanda Blicq

INSPECTOR