
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: 08 August 2017

Appeal Ref: APP/Y3615/W/17/3171076
107 Poyle Road, Tongham GU10 1DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Traylen against the decision of Guildford Borough Council.
 - The application Ref 16/P/02332, dated 18 November 2016, was refused by notice dated 16/02/2017.
 - The development proposed is demolition of existing buildings and erection of nine dwellings.
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Decision

1. The appeal is dismissed

Application for costs

2. An application for costs was made by Mr D Traylen against Guildford Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. This is an outline application with all matters reserved. Whilst illustrative plans have been submitted, I consider these to be indicative only.
4. The Council has confirmed during the appeal that although the Tree Preservation Order¹ (TPO) relating to the site has not yet been confirmed, there have been no objections and it is intended to confirm the order before 15 August 2017. As such, I have afforded it significant weight in my reasoning.

Main Issues

5. The main issues are the effect of the development on:
 - The character and appearance of the Area of Great Landscape Value (AGLV); and,
 - The Thames Basin Heaths Special Protection Area (TBHSPA).

¹ The Guildford Borough Council, Tree Preservation Order (No 1) of 2017, Land at 107 Poyle Road, Tongham, Farnham GU1 1DY

Reasons

Character and appearance

6. The site is a generous plot sited to the east of Tongham, with arable land on two sides. A detached dwelling (No 107) is located towards the front of the plot, broadly in line with a series of chalet bungalows located to its immediate west. These have significantly narrower plots than No 107 and an underlying consistency of style, plot size and form. The development comprises the demolition of the existing dwelling and the construction of nine dwellings.
7. The plot boundaries to the sides and rear are lined with protected mature trees. The tree survey shows that several trees have canopies that overhang the site to a significant effect. A large proportion are recorded as of high or moderate condition, with reasonable life expectancy.
8. The appellant argues that the principle of development on the site has been established as there is an extant permission for six dwellings². However, that permission is for a smaller area, amounting to about two thirds of the current appeal site. The southern extent of that development would be broadly in line with the extent of apparent domestication on adjoining plots to the west. There would be a buffer of undeveloped land between that development and the field to the south. This appeal would include that buffer, which currently abuts the field on two sides.
9. Aerial photographs show that this rear section of the site had significant tree cover until recently. I noted that the corresponding land behind the three adjacent plots to the west also comprises rough grass and semi-natural woodland, forming a transition between domestication and agricultural land use.
10. The appeal site is significantly wider than the adjoining plots. The likely frontage of four dwellings on narrow plots would be a continuation of, and largely consistent with, the established frontage along Poyle Road to the west. However, behind this frontage the construction of five dwellings would intensify development on the plot as well as extending frontage activity and domestication for a significant distance behind Poyle Road. This would be a significant departure from the underlying building pattern in relation to plot size and positioning, and would be unreflective of the adjacent development pattern.
11. Policy RE6 of the Local Plan³ (LP) states that development within the AGLV should be consistent with the intention of protecting the distinctive landscape character of the area. The site is situated within the Wooded Rolling Claylands landtype of the Guildford Landscape Character Assessment. This identifies hedgerows and hedgerow trees as being sensitive to change in this rural urban fringe area, and the guidance states that the hedgerow network and its trees should be conserved and enhanced, particularly in proximity to the urban edge.
12. The appellant argues that the site's boundary trees would provide sufficient screening to mitigate the development's visual impact and I appreciate that they currently provide strong boundaries. However, trees cannot be expected to exist in perpetuity, and the mature trees currently lining the site are unlikely

² APP/Y3615/W/16/3145691

³ Guildford Borough Council,

to be in place for the lifetime of the development. The site is some distance from the nearest footpath, and from the footpath the development would be glimpsed amongst and between the trees, and in the context of other dwellings along Poyle Road. However, the site is a transition between agricultural land and a distinctive building pattern. The proposals would shift the spread of development to the east and south of Tongham, and even when the trees were in full leaf I am not satisfied that this would not be partially visible. In any case, visual impact from the public domain is not the only consideration when assessing potential impact on the character and appearance of an area.

13. I acknowledge that the Inspector for the extant permission concluded that the established eastern and southern boundaries would significantly reduce views into the site from the open countryside. However, that Inspector was not considering the rear portion of the site which, the appellant's statement confirms, is the largely basis of the Council's current concern in relation to the AGLV.
14. Moreover, the tree survey indicates that most of the protected trees, including the largest oak on the site⁴, are in the rear portion of the site and thus were not under consideration by that Inspector. The extant permission is also likely to have fewer dwellings in the central portion of the site compared to the appeal before me. Consequently there would be less likelihood of conflict with root protection zones and tree canopies during and after construction, leading to a reasonable assumption that the existing trees could and would be retained in good health over the longer term.
15. In this appeal, the canopy spread of protected trees and extent of root protection zones will limit flexibility in layout and result in closer proximity between trees and dwellings. Given the shape and orientation of the site it is also likely, notwithstanding the TPO, that there would be pressure to prune or remove trees that were casting shade, appearing threatening in stormy weather or blocking views. As such, I conclude that the development before me would be likely to compromise the future health and longevity of the boundary trees and consider it is poor practice to rely on trees to limit harm resulting from a development.
16. Accordingly, although I appreciate the reasoning of previous Inspectors for schemes of fewer dwellings and on significantly smaller plots, I am not satisfied that this appeal is directly comparable in relation to the ongoing screening afforded by the hedgerow.
17. My attention has been drawn to an existing house located some distance to the west of the appeal site, close to the field boundary. However, I am not aware of the planning context or circumstances which led to permission being granted, and its presence does not serve to justify the proposal before me in any way.
18. In the light of the above, I conclude that the spread and quantum of development would be unrelated to the established building pattern, and that it would appear as a suburban cul-de-sac incongruously located immediately adjacent to and encroaching into agricultural land. I am not satisfied that the extent of development would enable the conservation or enhancement of

⁴ T6

existing trees, and in any case, such hedgerow screening would have a limited life expectancy.

19. Consequently, the scale and extent of the development would be detrimental to the character and appearance of the surrounding area and the AGLV. It would be contrary to LP Policy RE6, outlined above, and LP Policy G5 which amongst other considerations, requires new development to respect established street patterns, plot sizes, building lines and the relationship with other buildings

Thames Basin Heaths Special Protection Area

20. The appeal site lies within the buffer zone of the Thames Basin Heaths Special Protection Area (TBHSPA). The Council's second reason for refusal states that there was insufficient information to show that the development would not have a significant effect on the TBHSPA.
21. 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 the 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.
22. 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

23. The appellant argues that the emerging Local Plan includes the appeal site within the revised settlement boundary, and that there have been no objections to those revisions. However, representations made by the parish council at application stage indicate that there is local concern around the level of development in and around the village. As the consultation period for the Local Plan has just closed, I cannot presume that further changes will not be made to the settlement boundary and I give this argument limited weight.
24. There is a dispute between the parties as to whether the southern section of the appeal site comprises an open agricultural site. I have concluded that it is undeveloped and unmanaged as either domestic garden or productive agricultural land. The validity or otherwise of terminology used in its description has not been determinative to my reasoning.

Planning Balance

25. The Council is not able to demonstrate a five year housing supply. There is no dispute between the parties that LP Policy RE4, which seeks to restrict development on land which is both outside the urban area and beyond the Green Belt, should be considered out-of-date in accordance with Paragraph 49 of the Framework. Accordingly, Paragraph 14 of the Framework is engaged.

26. However, case law⁵ has indicated that where policies for the supply of housing are out of date, the weight to be given to those policies remains a matter of planning judgement and is dependent upon the degree of shortfall and the prospect of development coming forward to meet that shortfall. Furthermore, in other case law⁶ the courts considered that the particular purpose of the out-of-date policy could influence the weight to be accorded to it. As such, LP Policy RE4, cannot be disregarded and it carries some minor weight in the overall balance.
27. Moreover, although the appellant states that there are no policies within the Framework that would specifically preclude development on the appeal site, one of the Framework's core planning principles is that planning should take account of the different roles and character of different areas and Paragraph 58 states that development should respond to local character and history.
28. I appreciate that the development would make a contribution to the local housing shortfall. However, I have no reason to conclude that the extant permission for six dwellings would not be implemented if this decision is dismissed. Consequently, this development would have a net effect on local housing of three additional dwellings. This would make a limited contribution to local housing supply.
29. Accordingly, 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

30. 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

⁵ Crane v Secretary of State DCLG (2015) EWHC 425 (Admin)

⁶ Suffolk Coastal District Council v Hopkins Homes Ltd (2016) EWCA Civ168