

Appeal Decision

Site visit made on 9 October 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 31st October 2017

Appeal Ref: APP/Y3615/W/17/3179179

Land at Frog Grove Lane, Wood Street Village GU3 3EZ

- 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 Evans against the decision of Guildford Borough Council.
 - The application Ref 16/P/02134, dated 13 September 2016, was refused by notice dated 27 January 2017.
 - The development proposed is change of use of land from agricultural to Suitable Alternative Natural Greenspace, with associated fencing, access works, car park and highways access.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from agricultural land to public open space and nature reserve with associated fencing, access works, car park and highway access to facilitate a Suitable Alternative Natural Greenspace (SANG) on land at Frog Grove Lane, Wood Street Village GU3 3EZ, in accordance with the terms of the application, Ref 16/P/02134, dated 13 September 2016, subject to the attached schedule of conditions.

Application for costs

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

Procedural Matter

3. The use of land for a Suitable Alternative Natural Greenspace (SANG) is not a use of land within the Use Classes Order. The Council's decision notice and the appeal form therefore described the development as: 'change of use from agricultural land to public open space and nature reserve with associated fencing, access works, car park and highway access to facilitate a Suitable Alternative Natural Greenspace (SANG)'. I have determined the appeal on the basis of this more accurate and revised description.

Background

4. The appeal site is approximately 34.5ha of land in use for cattle grazing. It lies within the Green Belt and is currently divided into four fields separated by hedgerows and fences. There is a field access close to where a public footpath crosses the site from a stile along Frog Grove Lane. It is proposed to develop the SANG in phases. The first phase would introduce a vehicular access to replace the existing field access and provide a car park for 30 vehicles and 24 bicycles. A circular walk would be created which would require the erection of

fencing and gates. Later phases would include additional planting along with an extension of the proposed walkways.

5. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 89 and 90 provide a limited number of exceptions where development may not be considered to be inappropriate. The appellant, contrary to the Council, initially contended that the provision of a SANG could be considered as exceptional case. However, he has subsequently accepted that the change of use of the land would, by default, be inappropriate development. I agree and have determined the appeal on that basis.

Main Issues

6. The main issues are therefore:

- The effect of the proposal on the openness and visual amenities of the Green Belt;
- Whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Effect on the openness and visual amenities of the Green Belt

7. Paragraph 79 of the Framework states that the most important characteristics of Green Belts are their openness and their permanence. Openness is the absence of development, irrespective of whether or not the development would be seen from any public viewpoints.
8. In the vicinity of the appeal site the eastern side of Frog Grove Lane has a continuous frontage of houses. This contrasts with the western side of the street which is undeveloped rising ground, enclosed by a roadside hedge. The proposal would introduce a new vehicular access, and would provide cycle and car parking, picnic tables, bins and interpretation boards, into an open agricultural field. Considered together these elements would occupy only a very small proportion of the 34.5ha site.
9. The car park would be enclosed by a planted earth mound, thereby screening it from view from much of the surrounding area. It would not be prominent from Frog Grove Lane. Parked vehicles would be partially visible from the proposed vantage points within the SANG. However, parked vehicles would come and go and would not be a permanent feature within the landscape. Other elements of the scheme would be entirely compatible with the rural character of the area, with limited areas of tree planting, new hedges, fences and gates. Even with some hard surfacing, the footpaths would not adversely affect openness or appear out of keeping with the area's appearance.
10. I therefore conclude that the proposal would result in a small loss of openness to the Green Belt, but without harm to visual amenity. The proposal would not conflict with any of the five purposes of including land in the Green Belt set out in Paragraph 80 of the Framework. The small loss of openness to the Green Belt is therefore a matter of limited weight in my assessment of the proposal.

Other considerations

a) Access and informal recreation

11. Paragraph 81 of the Framework promotes beneficial uses of the Green Belt, which include providing access and opportunities for recreation. The site has a footpath crossing it from the existing style towards Sandy Lane. However, on its own, this could only be part of a walk within this area of countryside. The existing path does not provide a route to the highest parts of the site which would provide pleasant views over the surrounding countryside. Access to the existing footpath is also limited by the lack of suitable places to park and is therefore only likely to be attractive to those who live within walking distance of the site. The proposal would provide improved public access and increased opportunities for enjoyment of an area of open space for informal recreation, including a 2.3km circular walk. Paragraph 73 of the Framework recognises that such access can make an important contribution to the health and well-being of communities.

b) Biodiversity

12. The ecology survey indicated that the site as a whole has a low to moderate biodiversity value and the location of the proposed car park represents a poor habitat for protected species. Much of the grassland is over-grazed and the hedgerows are of varying quality, although they do provide a habitat for breeding birds. The scheme would provide opportunities for significant improvements in biodiversity, subject to changes in the current management of the land. The proposal would include retention and management of existing vegetation. It would also provide additional native tree and shrub planting, along with the creation of a wildflower meadow. These measures to improve biodiversity and minimise the risk of harming protected species would be beneficial. They could be secured by condition, as could the longer term management of the area.

c) The Thames Basin Heaths Special Protection Area

13. The appeal site lies within 400m-5km of the Thames Basin Heaths Special Protection Area (TBHSPA). New residential development which takes place within this area is likely to have a significant effect on the integrity of the TBHSPA as a result of additional recreational visits. It therefore cannot proceed without adequate mitigation measures being secured to address the potential adverse effects on the protected species. The Council's TBHSPA Avoidance Strategy requires the provision of SANG to reduce pressure on the protected areas.
14. The proposal at Frog Grove Lane would meet Natural England's criteria for a SANG and has the potential to provide effective mitigation for future residential development in the borough. The emerging Local Plan recognises the need for SANG and the appeal site is included as one of a number of options for their provision in the Council's draft Infrastructure Development Plan (IDP), where it is referred to as Russell Place Farm. The existing SANG at Lakeside, in the far west of the borough, has limited capacity and so the appeal site would provide an additional facility that could serve a significant part of the western half of the borough. Furthermore, the site's proximity to the TBHSPA could encourage the diversion of some existing recreational activity away from the protected area, even in the absence of any new development.

15. The Council is currently unable to demonstrate a five-year supply of deliverable housing sites. There is still considerable uncertainty about where additional housing will be delivered as the emerging Local Plan has yet to be tested. However, from the evidence presented, it would appear that a significant number of dwellings are likely to be built in the western part of the borough. These may be delivered through the development of a combination of small and large sites. Whilst mitigation could be provided by the proposed SANG at Frog Grove Lane, it has been suggested that there is no need to rely on it, as there may be other sites that would be suitable.
16. The distribution of housing sites and the provision of the necessary SANGs is a matter for the Local Plan. As it is in the early stages of preparation, I can give the emerging plan little weight. However on the basis of the evidence used to prepare the plan, the IDP has identified a series of potential sites for SANG across the borough. The geographical spread of these sites would appear to provide choice and flexibility, both for the provision of much needed housing and the mitigation that will be necessary. In this context, the appeal site seems to be located in an area that would be well suited to serving its intended purpose. It would enable the provision of approximately 1,835 three-bedroom residential units. This would make a significant contribution to addressing the borough's housing needs.

d) Summary

17. All these factors demonstrate that there would be significant benefits arising from the development. Firstly, the provision of an area of public open space would improve opportunities for informal recreation. Secondly, environmental enhancements would increase biodiversity. Even in the absence of a direct link to future housing development, the scheme would reduce pressure on the TBHSPA from existing development. Furthermore, the proposal would provide a means of mitigating the adverse effects of additional recreational pressures on the protected area, thereby reducing delays associated with the delivery of much needed new housing development. This combination of factors carries considerable weight in the scheme's favour.

Other Matters

18. Local residents have raised concerns about a number of other matters. These include loss of agricultural land, flood risk, traffic and highway safety, fly-tipping and other forms of anti-social behaviour.
19. The site is not high quality agricultural land where a change of use should be resisted. The loss of grazing land would have a very limited effect on the rural economy. The site is not at risk from fluvial or pluvial flooding. Run-off from any impermeable areas would be minimal and surface water drainage could be controlled by condition.
20. The proposal would generate additional traffic movements. However, appropriate numbers of parking spaces would be provided to meet Natural England's requirements. The highway authority assessed the proposal on safety, capacity and policy grounds and was satisfied that the additional traffic and turning movements could be accommodated safely, subject to the provision of a new access with appropriate visibility splays. On the basis of the available evidence, I have no reason to take a different view. All these requirements can be secured by conditions.

21. Whilst I appreciate the concern of local people about fly-tipping and anti-social behaviour, there was no substantive evidence to demonstrate that the proposal would lead to an increase in such activities. In any event, these matters are subject to other environmental legislation or would be issues for the Police to investigate. I do not consider that any of these matters weigh against the proposal.

The Green Belt Balance

22. The proposal would be inappropriate development within the Green Belt which the Framework states is, by definition, harmful and should only be approved in very special circumstances. In addition, I have found the proposal would cause limited harm to the openness of the Green Belt. These harms to the Green Belt are matters which the Framework requires me to attach substantial weight.
23. However, I have not found there to be any material factors which weigh against the scheme. On the contrary there are other considerations, all of which weigh heavily in the scheme's favour and clearly outweigh the limited harm to the Green Belt. Therefore the very special circumstances necessary to justify the proposal have been met.

Conditions

24. In the event that the appeal was allowed the Council has suggested a series of conditions. I have amended these in the interests of clarity and precision and to ensure that they meet the tests set out in Paragraph 206 of the Framework. I have also simplified them to avoid repetition and specific reference to future residential development. It was brought to my attention that a SANG elsewhere in the Borough, has recently been approved on appeal, Ref: APP/Y3615/W/16/3165858. For the sake of consistency, I have therefore also had regard to the conditions imposed by the Inspector in that case.
25. In addition to the statutory time limit a condition specifying the plans is required in the interests of certainty. A condition securing public access in perpetuity is essential to deliver the fundamental purposes of the development. A condition requiring a comprehensive management plan is necessary for the effective long term management of the site for public use and to secure its environmental and ecological enhancement. Conditions relating to parking and access are required in the interests of highway safety and to prevent flooding. Provision of cycle parking is necessary to encourage the use of sustainable transport. Conditions removing permitted development rights and preventing the installation of lighting are necessary to protect the character and appearance of the area.

Conclusion

26. For the reasons set out above, and having regard to all other relevant matters raised, I conclude that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

956-P-02B, 956-P-11G, 956-P-22A, 956-P-10C and 956-P13C CAR PARK
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. The car parking area hereby permitted shall be constructed in accordance with details and materials which have previously been approved in writing by the local planning authority.
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 visibility zones shall be kept clear of any obstruction above 0.6m 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 permanently retained and maintained for such purposes thereafter.
8. Prior to the first use of the development hereby permitted, secure cycle parking facilities shall be implemented in accordance with details which have previously been submitted to and approved in writing by the local planning authority. The secure cycle parking facilities shall be retained and maintained as approved thereafter.
9. Prior to the first use of the development hereby permitted the existing access from the site to Frog Grove Lane shall be permanently closed and any kerbs, verge and footway fully reinstated.
10. 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 those shown on the approved plans or agreed as part of the SANG Management Plan, shall be constructed or erected on the site.
11. No lighting shall be installed on the site.