



Appeal Decision

Site visit made on 8 November, 2017

by G. Rollings, BA (Hons) MA(UD) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th March, 2018

Appeal Ref: APP/Q3630/W/17/3179879

Land between 314 and 316 Stroude Road, Virginia Water, GU25 4DB

- 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 Alan Bell (Prestige Quality Homes) against the decision of Runnymede Borough Council.
 - The application Ref: RU.17/0502 dated 16 March, 2017 was refused by notice dated 1 June, 2017.
 - The development proposed is the erection of a pair of semi-detached dwellings with off-street parking.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Alan Bell of Prestige Quality Homes against Runnymede Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. I have used the appeal site address provided by the Council on its decision notice, rather than the address provided by the appellant on the application and appeal forms. The version I have used makes it clear that the proposal is for the site between two existing properties, rather than the initial description, which could be construed as relating to the established residence at 316 Stroud Road.

Background and Main Issues

4. The appeal site is a vacant plot with a direct street frontage, and open land to the rear. It is in the Green Belt, and so the main issues are:
 - Whether the scheme represents inappropriate development for the purposes of the *National Planning Policy Framework* (the Framework) and development plan policy;
 - The development's effects on the Green Belt's openness, for the purposes of Green Belt Policy; and
 - The effect of the proposal on the Thames Basin Heaths Special Protection Area.

Reasons

Whether inappropriate development?

5. Policy GB1 of the *Runnymede Borough Local Plan* (2001) sets out a strong presumption against development that would conflict with the purposes of the Green Belt, with the accompanying text noting a need to prevent sprawl. This approach is generally consistent with the Framework, which states that new buildings are inappropriate in the Green Belt (paragraph 89). However, the Framework lists exceptions where new buildings may be appropriate, including limited infilling in villages.
6. The appeal site is not within an identified settlement boundary as defined within the Local Plan. However, it is within Stroude, a settlement containing a substantial number of dwellings. Stroude Road has a ribbon-type pattern of development, lined with closely-spaced houses for a considerable length. This settlement is not formally designated as a village, and the Council suggests that the absence of traditional village-type services indicates that it should not be considered as such. However, there is no formal definition of a village before me, and I consider that the absence of such services does not necessarily mean that the settlement does not constitute a village. Indeed, the presence of 'welcome' signs on both main approaches and the general density and clustered pattern of development provide a strong indication that the settlement should be considered a village, in comparison with the Council's suggestion of the opposite.
7. Local Plan Policy GB2 designates a formal boundary around the nearby rural settlement of Thorpe. However, I do not consider that the absence of a similar boundary around Stroude does not preclude it from being considered a village for policy purposes, for the reasons that I have set out above. Likewise, as this proposal would be infill development within an already substantially developed frontage, it would not contribute to a coalescence of Stroude with an adjoining settlement, as referred to in the text accompanying Policy GB1.
8. A recent appeal decision for a similar proposal on this site also found in favour of the appellant's village argument.¹ I am also aware of a recent appeal for infill residential development on a nearby site within the same settlement, which considered similar arguments to those before me, but conversely found that Stroude is not a village.² Both cases provide a precedent for development in the area. Nonetheless, in determining this appeal I have considered the merits of the proposal based on the evidence that has been submitted by the relevant parties. Given its similarities to the proposal before me, and the fact that it was for the same site, the earlier appeal provides additional relevance. In weighing this evidence, in this instance I consider that there is a balance in favour of the area being identified as a village.
9. Accordingly, the proposal represents limited infilling in a village, which is one of the exceptions set out in paragraph 89 of the Framework. I therefore find that the proposal would not represent inappropriate development for the purposes of the *National Planning Policy Framework* (the Framework). Given that there would be no conflict with the purposes of the Green Belt, there would also be no conflict with Local Plan Policy GB1.

¹ Appeal Ref: APP/Q3630/W/16/3161692; date of decision: 3 March 2017.

² Appeal Ref: APP/Q3630/W/16/3175394; date of decision: 5 September 2017

Effect on openness

10. The site is enclosed on two sides by built-up development, with further development across the road bordering its frontage. Trees and open land are located beyond the rear boundary, and the site was overgrown with uncultivated vegetation at the time of my visit. Despite its mostly closed-in nature, locating buildings on the site would, by definition, result in a loss of openness. Nonetheless, its location in a small gap within an existing built-up area, and its minimal contribution to the visual aims of green belt policy, mean that the impact of its harm would be limited.
11. I therefore conclude that the proposed development would result in a loss of openness of Green Belt Land. This would conflict with the Framework, which notes at paragraph 79 that the aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, but the effects of the harm would be minimal. It would also conflict with Local Plan Policy GB1, for similar reasons.

Effect on the Thames Basin Heaths Special Protection Area (TBHSPA)

12. The Council's adopted document, *The Thames Basin Heaths Special Protection Areas Supplementary Planning Guidance* (2007) (SPG), sets out its approach to development within five kilometres of the SPA. The appeal site is within zone C, at two to five kilometres from the SPA, and the SPG recommends that development contributions from such sites on a per-dwelling basis to enable maintenance of identified Suitable Areas of Natural Greenspace (SANGs). The methods identified within the SPG are suitable for provision of mitigation and enable the Council to meet its obligations under the Habitats Regulations and European Directives.³
13. The appellant has submitted a signed and executed SANGs consent agreement (pursuant to section 111 of the Local Government Act 1972) which incorporates an undertaking to provide contributions for mitigating the development's impacts on the TBHSPA. The contribution would be paid to the Council as consent to utilise a Council SANG, and this would relate to maintenance and enhancement of an existing SANG. I am satisfied that this meets the requirements of Regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010. A signed and executed unilateral undertaking has also been provided, which would provide a SPA Access Management and Monitoring (SAMB) contribution. Both contributions would meet the tests in Regulation 122 of the CIL Regulations, and paragraph 204 of the Framework.
14. The aforementioned previous appeal relating to this site was dismissed as the Inspector in that instance was not satisfied that the necessary provision would occur. Although her concerns have largely been addressed, I am not wholly convinced in this instance that the mitigation would be guaranteed. The undertaking to pay the SANGs contribution on the implementation of development would not be secure, as it is an undertaking on the part of the named developer. There is no provision to make the agreement enforceable against successors in title, and thus if ownership of the site was to change prior to commencement of development, the successor in title would not be required to make the contribution. The agreement before me is also unsigned by the Council.

³ Conservation of Habitats and Species Regulations 2010; Council Directive 92/43/EEC.

15. I acknowledge that the parties have agreed to a planning condition that would restrict development until a SANG provision scheme was agreed. However, the Planning Practice Guidance (PPG) advises that conditions requiring an appellant to enter into an agreement securing a contribution prior to development are rarely likely to be appropriate.⁴ I do not consider the appeal proposal to represent an example of an exception as set out within the PPG, and as such, the condition would not be appropriate.
16. The appellant has submitted examples of previous appeals to justify its approach to the contributions, but as I am not certain whether these included considerations of this nature, I do consider them to provide a suitable precedent in this case. Given that I am not wholly satisfied that the SANGs mitigation would be provided were development to occur, I conclude on this issue that the proposed development would result in harm to the Thames Basin Heaths Special Protection Area.

Other matters

17. The appellant notes that the absence of a five-year supply of deliverable housing sites within the borough would trigger the operation of paragraphs 14 and 49 of the Framework, whereby the local plan's policies relevant to the supply of housing would be considered out of date. Given the Council's historic reliance on small development sites within its housing supply⁵, I agree that the provision of a small number of dwellings, as in this case, would be beneficial.
18. However, I have identified that the proposed development would harm the TBHSPA. Additionally, paragraph 119 of the Framework notes that the presumption in favour of sustainable development does not apply in the determination of development requiring appropriate assessment under the Habitats Directives.⁶ In any case, I consider that the harm that I have identified would outweigh the benefits to the local housing supply.

Conclusion

19. I have found that the proposal would not be inappropriate development in the Green Belt, although it would have a detrimental effect on the openness of the land. The harm would be unsubstantial, and additionally the contribution of the proposed dwellings to the local housing supply weighs in favour of the proposal. However, these considerations are outweighed by the lack of proper mitigation for the development's impact on the Thames Basin Heaths Special Protection Area, a European protected site, and its harm.
20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Rollings

INSPECTOR

⁴ PPG "Use of Planning Conditions", paragraph 10, Reference ID: 21a-01020140306, revision date 06 03 2014.

⁵ *Strategic Lane Available Assessment – Interim SLAA June 2016*, Runnymede Borough Council.

⁶ As set out in paragraph 14 of the Framework.