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## Appeal Decision

Site visit made on 3 June 2019

**by J Wilson BA Hons BTP MRTPI DMS**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> June 2019**

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**Appeal Ref: APP/N1730/W/18/3218746**

**Land to the South of Chatter Alley, Dogmersfield, HOOK RG27 8SS**

- 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 Earls Gate Ltd. and Vortal Properties Ltd., Messrs N. P. Moysey, G. D. White & J. C. Catt against the decision of Hart District Council.
  - The application Ref 18/00877/FUL, dated 23 April 2018, was refused by notice dated 18 June 2018.
  - The development proposed is the creation of public parking area (20 no. spaces) with associated access; erection of 5 no. detached dwellings with associated accesses, parking and turning space and amenity space.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Since the appeal was lodged the Government has published its Housing Delivery Test results alongside the publication of an updated revised National Planning Policy Framework (The Framework). This makes minor revisions including an additional footnote to Paragraph 11 (effective from 20 February 2019). The Housing Delivery Test outcome for the Council indicates that the delivery has been above the requirement over the last three years (at 278%) which means no change to the housing position. References to the Framework throughout this decision relate to the 2019 Framework.
3. The emerging Hart Local Plan has been the subject of examination however it is not yet adopted and does not yet form part of the development plan for the area. Similarly, the Dogmersfield Neighbourhood Plan was submitted for examination in January 2019 but has not completed its process of examination and does not form part of the development plan currently in force.

### Main Issues

4. The main issues are: a) the effect of the development on the character and appearance of the area and whether it would preserve or enhance the Dogmersfield Conservation Area (CA); b) the effect of the development on the character of the countryside and c) the effect of the development on the Heath Brow and Bourley, and Long Valley Sites of Special Scientific Interest (SSSI) which form part of the Thames Basin Heaths Special Protection Area (SPA).

## Reasons

### *Character and Appearance of the Conservation Area*

5. There is a distinctly different character to parts of Chatter Alley. The appellants draw attention to the content of the Conservation document which refers to modern bungalows and motor trade businesses to the south east of the appeal site. However, the properties on the opposite side of the road and to the north of the appeal site have a more rural appearance with sites heavily screened from the road by mature planting.
6. The site is an open field within which there is evidence of an unmade track. It fronts Chatter Alley and lies immediately adjacent to the school. It represents a significant gap between the school and properties at the eastern end of Chatter Alley and views across the appeal site towards the church are acknowledged to be important in the CA. To the rear fields slope up gently towards the church which is screened by mature trees. These features enhance the visual contribution which the appeal site makes to the character of this part of the village and the CA despite the presence of an unattractive pylon to the front of the site.
7. The development proposes five detached houses across almost all the width of the meadow with a narrow section devoted to the formation of a car park for the adjacent school. Development on the site would erode the visual gap substantially with only limited opportunity available for views towards the church between the proposed buildings.
8. The character appraisal and management proposals for the Dogmersfield CA refers specifically to the views across the open meadow as being important from Chatter Alley, from the footpath linking the school with the church and from glimpses possible from Church Lane. I viewed the appeal site from each of these points and consider that development on the appeal site would significantly alter these views and impact harmfully on the character of the CA though in the words of the Framework<sup>1</sup> that harm would be less than substantial.
9. Consequently, the development would conflict with Saved Policy CON13 of the Hart District Local Plan<sup>2</sup> (2009) (Local Plan) and to the aims of the Framework. Together these seek to ensure that the character and appearance of the CA is conserved or enhanced.

### *Character of the Countryside*

10. Dogmersfield CA is widely drawn and includes large areas of open land. The appellants state that any development will change the character of an area. However, they argue that Chatter Alley has changed significantly since 1977 and gives the impression of a built-up village centre. Whilst I agree that there is a ribbon form of development on parts of Chatter Alley, I do not concur with the appellants' view that the character of Chatter Alley is one of a village centre and particularly not in the vicinity of the appeal site. The removal of overhead power cables which are unsightly would represent a visual improvement

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<sup>1</sup> Paragraph 193 – National Planning Policy

<sup>2</sup> Full title Hart District Local Plan (Replacement) 1996-2006 (2009) (Local Plan) and First Alterations to the Hart District Local Plan (Replacement) 1996-2006

however the impact of five dwellings on the site would have a negative impact on this part of the village.

11. Reference has not been made to any specific development limit though the appellants refer to the site adjoining the settlement boundary. The Council refer to the site being in the countryside and I have set out my reasons why the open character of the land would be adversely affected by the introduction of built form on what is an acknowledged important visual gap adjacent to the school and within the CA.
12. For these reasons the development would conflict with Policies RUR 2 and CON 22 of the Local Plan and to the aims of the Framework. These policies seek, amongst other things to resist development which would adversely affect the character or setting of a settlement or lead to the loss of important areas of open land around settlements especially those which would result in the loss of significant public views.

### *Special Protection Area*

13. The appeal site lies within 5 kilometres of the Bourley and Long Valley Site of Special Scientific Interest (SSSI) which forms part of the Thames Basin Heaths Special Protection Area (SPA) and where development would have a significant adverse effect on heathland interests. Despite the appellants' stated willingness to enter into an agreement to secure mitigation of the harm to the SPA and the receipt of evidence regarding an active exchange of email on this matter no such agreement is before me. My decision must therefore be based upon its absence. I do not consider that a Grampian style condition would be appropriate to deal with this matter as it is far from clear precisely what would be secured by it.
14. Consequently, as measures have not been secured to mitigate any harm to the SPA the development would be contrary to Policies CON1 and CON2 of the Local Plan and to saved policy NRM6 of the South East Plan - Regional Spatial Strategy for the South East of England (2009). These policies together seek to ensure that the effect on the special protection areas are minimised and where development does occur that appropriate mitigation is secured.

### **Other Matters**

15. The appellants refer to the encouragement given by the Framework to the development of small sites and the contribution they can make to the provision of housing. They also argue that at least 2000 dwellings identified in the Councils' supply are not deliverable, and this undermines the validity of the 9.5 year supply as claimed by the Council. Reference has also been made to an appeal decision<sup>3</sup> dated August 2018 which relates to the interpretation of deliverable sites. In contrast the Council have highlighted the more recent conclusions of the Local Plan Inspector who has stated there to be a healthy supply of sites in the district such that some slippage in delivery could be accommodated. In this regard there is no substantive evidence before me which would lead me to conclude that the Council does not currently have a deliverable five-year supply of housing and on that basis the provisions of paragraph 11(d) of the Framework otherwise known as the tilted balance<sup>4</sup> is not engaged.

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<sup>3</sup> APP/W3520/W/18/3194926

<sup>4</sup> Paragraph 11(d) National Planning Policy Framework

16. Reference is made to the same appeal referred to in the previous paragraph however that site was considered in relation to the setting of a CA whereas this appeal site is within a CA and where there is statutory protection. The circumstances are not therefore comparable.
17. I have noted the erroneous reference to the site being in the Green Belt which is incorrect, and I have not regarded the site as being subject to that designation.
18. I have noted that there would be no adverse impact on the living conditions of neighbouring properties, nor would there be any ecological impact or issues relating to surface water drainage however the lack of impact is a neutral factor which weighs neither for nor against the proposal.
19. Part of the site had planning permission in 2001 for a car park and is believed to have been used in the past to serve the school. There is some evidence of an unmade track on the site and whilst the appellants state that the car park use means the site is not a green field, I have no details before me as to the extent of land put to that alternative use or whether the permission from 2001 was ever implemented. I saw on my visit that the appearance of the site is open meadow/field and even though part of the site may have been used as an informal car park this would not have had the same visual effect on the site or on its character which the appeal proposal would.
20. Photographs have been provided to illustrate car parking congestion associated with the beginning and end of the school day which the appellants state represents a highway safety issue. The use of part of the site for additional car parking to accommodate parental vehicle movements would be a local benefit to which some weight should be afforded.
21. My attention has been drawn to a recent consent for an additional dwelling on a site on the opposite side of Chatter Alley which is also within the CA. That site benefits from significant screening and also lies within the settlement boundary such that the circumstances of the site are not comparable with the appeal proposal.
22. The appellants refer to the site being appropriate for self-build plots and although not promoted as such suggests that a legal agreement or planning condition could secure this given that there are 30 applicants on the self-build register. I have not been provided with any substantive evidence in relation to self-build or to the connection of any local people to the development (in line with self-build legislation<sup>5</sup>). I have no legal agreement before me in this regard and whilst the addition of five houses would be a benefit on the basis of the evidence before me relatively little weight can be given to the appellants' reference to self-build.
23. The appellants highlight that there are no objections to the design of the development. However, as aspects of good design are fundamental to all development, as stated within the Framework, this does not represent a notable benefit.

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<sup>5</sup> Self-build and Custom Housebuilding Act 2015 and Planning Practice Guidance Paragraph: 016 Reference ID: 57-016-20170728

## Planning Balance and Conclusion

24. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be given to the desirability of preserving or enhancing the character or appearance of the CA. This is reinforced by Policy CON 13 of the Local Plan which seeks to protect the CA from development which fails to preserve or enhance it.
25. Paragraph 193 of the Framework says great weight should be given to the conservation of a designated heritage asset (in this case the CA), and any harm requires clear and convincing justification. Paragraph 196 states that where a proposal would lead to less than substantial harm to the significance of such an asset, that harm should be weighed against the public benefit of a proposal. The PPG<sup>6</sup> defines public benefit in this regard as *"of a nature or scale to be of benefit to the public at large and should not just be a private benefit"*.
26. In this case the public benefits argued by the appellant relate to the provision of additional car parking for the school and the removal of unsightly cables. These do not represent the clear and convincing justification which would be needed to outweigh the harm which I have identified to the Dogmersfield CA. Consequently, a decision other than in accordance with the development plan is not justified.
27. For the reasons given above, and having had regard to all other matters raised, the appeal is dismissed.

*Janet Wilson*

INSPECTOR

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<sup>6</sup> Planning Practice Guidance