
Appeal Decision

Site visit made on 22 October 2019

by Rajeevan Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2019

Appeal Ref: APP/N1730/W/19/3234024

Land east of Mill Lane, Yateley GU46 7TE

- 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 S Haskett on behalf of Belgrave Homes Limited, Vortal Properties Limited, Robina Vera Kent and Robert Miles Clark against the decision of Hart District Council.
 - The application Ref 17/01504/FUL, dated 16 June 2017, was refused by notice dated 3 June 2019.
 - The development proposed is the erection of 9 no. dwellings, associated access, parking and amenity space.
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Decision

1. The appeal is dismissed.

Procedural matters

2. For the purposes of this appeal, the development plan comprises the saved policies of the Hart District Local Plan (Replacement) 1996-2006, the saved policies of the First Alterations to the Hart District Local Plan 1996-2006 (LP), and the South East Plan 2009 (SEP).
3. The Council have also referred to the Draft Hart Local Plan Strategy and Sites 2016-2032 (DLP), which was the subject of Examination in Public in November and December 2018. The Inspector's initial letter to the Council¹ sets out the further steps/modifications considered necessary to make the plan legally compliant. The Inspector's letter does not seek further steps and no main modifications are necessary to make the plan legally compliant or sound. Furthermore, no main modifications are necessary in respect of housing need/supply, spatial strategy policies (with the exception of deleting policy SS3 – New Settlement) nor the draft housing policies. The letter does not recommend the allocation of any further housing sites. The Council responded to the letter² which confirmed Council's agreement to the modifications recommended by the Inspector. The proposed modification to the DLP were published for consultation on 5 July 2019, and the current timetable for adoption of the DLP is late autumn 2019. As such, the parties agree that the DLP is at an advance stage. Therefore, I have attached substantial weight to these policies but not the full weight of an adopted Local Plan.

¹ Sent to Council on 26.02.2019

² Reply sent on 15.03.2019

4. Subsequent to the determination of the application and prior to my site visit, the appellants have submitted a signed and dated Unilateral Undertaking (UU) in an attempt to secure the provision of financial contribution towards the management of the proposed Suitable Alternative Natural Green space (SANG) and Strategic Access Management and Monitoring tariff (SAMM). I shall return to this matter later in my decision.

Main Issues

5. The main issues are:

- Whether the site is suitable location for housing, having regard to the character and appearance of the area, including the effect of the proposal on the Blackwater Valley Strategic Gap; and
- The effect of the proposed development on the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Suitability of the location

Character and appearance

6. The site lies outside the settlement boundary for Yateley as defined in the LP and the DLP. Indeed, other than some relatively minor alterations proposed, the settlement boundary for Yateley remains largely unaltered in the DLP. Saved Policy RUR 2 of the LP states that development in the countryside will not be permitted unless the local planning authority is satisfied that it is specifically provided for by other policies in the local plan, and that it does not have a significant detrimental effect on the character and setting of the countryside.
7. With regards to the character and setting of the countryside, the site has a relatively wide frontage visible from the Mill Lane and comprises overgrown grassland with and dense vegetation and trees fronting the road. The Hampshire's Integrated Landscape Assessment (2012) refers generally to the Blackwater Valley Lakes which have been created following gravel extraction along the Black Water Valley are popular for water sports and fishing, where the experiential quality of the river valley floor is also generally described as tranquil. The HDC Landscape Character Assessment (1997) further highlights that the site is located within character area 5 - Black Water Valley with the area is described as one of riparian character with low-lying valley floor with riverside pastures, willow-lined water courses and a well-treed character. The site lies within the central section of the Black Water Valley character area which is characterised by water and wetlands. Owing to the site's proximity to the adjacent lakes the site displays many of these positive features.
8. Although the site lies directly opposite the settlement boundary of Yateley, the appeal site, has a distinctly more rural character and feel, with its grassland, and dense vegetation and trees. The appellants contend that the appeal scheme would have no material impact on the wider landscape features and that Mill Lane is a residential street with development on both the east and west. Nonetheless, when viewed from Mill Lane, the site is undeveloped and forms part of the open countryside with a verdant and tranquil character appropriate to the rural setting of the Black Water Valley.

9. However, the proposed development would represent an extension of built form into the countryside, which would be more akin to the residential properties on the opposite side of Mill Lane, which are within the defined settlement boundary, rather than the rural character of the appeal site.
10. Whilst I acknowledge that the development would be largely contained towards the frontage of the site, thereby maintaining a natural buffer towards the rear of the site, the proposal for nine dwellings would result in built development in the countryside that would detract from the character and appearance of the area. Therefore, the proposal would constitute an uncharacteristic intensification of development, at odds with the prevailing appearance of the area. The urbanisation of the appearance of the site would be readily apparent from the surrounding area, including Mill Lane, and its intrinsic value as part of the open countryside would thereby be undermined. Furthermore, I do not consider that this harm could be overcome by any existing or proposed landscaping.
11. As the appeal site is outside of the settlement boundaries of Yateley and therefore within the open countryside the proposed development would be contrary to Policy RUR2 of the LP. Furthermore, the proposal meets none of the exceptions listed in Policy NBE1 of the DLP, and therefore also conflicts with this emerging policy.

Blackwater Valley Strategic Gap

12. The site is also located within an area of the countryside designated as the Blackwater Valley Strategic Gap. Policies CON 19 and CON 20 explains that within these areas permission will not be granted for development which would diminish the gap physically or visually. The LP further explains that these are designated to protect those areas of land which have particular importance as open and undeveloped land. Policy RUR 31 supports developments for recreational uses within this area.
13. The proposal would not be for recreational purposes and would result in the reduction of this strategic gap, on land which is currently undeveloped. Despite the retention of landscaping to the frontage of the site, the proposed development comprising of two storey dwellings with pitched roofs would be clearly apparent above and through the landscaping, which would erode the existing rural character and feel of the site. This would be particularly so during autumn and winter months. Whilst I acknowledge that the development would not result in the physical coalescence of the existing settlements, the development would nevertheless erode the existing gap with new housing development of a suburban character, which would be readily apparent from Mill Lane. The Council accepts that reduced weight can be given to this conflict as this area is proposed to be removed from the 'Strategic Gap' in the DLP. I agree that some reduced weight can be given to these policies, but this does not remove the conflict with the relevant development plan policies.

Conclusion on the suitability of the location

14. The proposal would not fall within any of the categories of development allowed for in both the LP and DLP. The proposal would harm the character of the countryside by providing nine houses together with associated access road, off-street parking areas and garage, which would significantly reduce its rural

qualities, notwithstanding the provision of a landscape buffer to the rear of the site.

15. I therefore conclude that the proposed development would not provide a suitable location for housing having regard to the character and appearance of the area, including its effect on the Blackwater Valley Strategic Gap. In this respect the proposal conflicts with saved policies GEN 1, GEN 3, CON 19, CON 20, RUR 2 and RUR 31 of the LP, and policies SS1, NBE1, NBE2 and NBE3 of the DLP. Amongst other things these seek to protect the character and appearance of the countryside and strategic gaps.
16. Furthermore, it would also be contrary to paragraph 127c) and 170b) of the National Planning Policy Framework (Framework) which seeks to ensure that all development: is sympathetic to the local character including the surrounding built environment and landscape setting and recognise the intrinsic character and beauty of the countryside.

The SPA

17. The site is within 5 km of the buffer zone of the SPA, which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations). The SPA is a network of heathland sites which are designated for their ability to provide a habitat for internationally important bird species.
18. The appellants have submitted a UU to provide mitigation measures for the SPA. Recent caselaw has established that potential mitigation for SPAs cannot be taken into account when determining whether an Appropriate Assessment (AA) is required but may be considered if an AA has been undertaken and determined that the development would harm the integrity of the designated European sites. If I had been minded to allow the appeal, as the 'competent authority' it would have been necessary for me to go back to the parties to seek further information and consult Natural England in order to complete an AA for this development. However, as I am dismissing for other reasons it is not necessary for me to consider this matter further as it could not change the outcome of this appeal.

Other matters

19. In relation to access to services and facilities, I agree with the appellants that the site is well located to a number of services and facilities which include public houses, a pharmacy, Yateley Manor primary school, as well as a number of shops. However, this does not outweigh my other concerns in relation to the main issue, outlined above. The appellants also contend that the proposal would make an important contribution towards addressing identified market housing needs, and boost the supply of housing, as set out in paragraph 59 of the Framework. It is also stated that the proposal would make effective use of land and achieving well-designed places. However, I am not convinced that these benefits outweigh the harms identified under the main issues above.
20. The appellants also contend that the site should be included within the Local Plan review as quickly as possible. However, this is not a matter for me to consider as part of this s78 appeal.
21. The appellants consider that the LP, including its policies for housing, is out of date, and therefore the tilted balance should be engaged. In support of this,

they have submitted a number of appeal decisions³, which includes the recently quashed decision at Broden Stables, Crondall⁴, due to failure to undertake an Appropriate Assessment for the SPA. I have carefully considered all of these decisions where the Inspectors afforded only limited/moderate weight to Policy RUR 2 as they considered that the policy was based on out-of-date settlement boundaries, and due to the fact that development had been permitted on land outside of settlement boundaries in the district.

22. The fact that a particular development plan policy may be chronologically old is, in itself, irrelevant for the purposes of assessing its consistency with policies in the Framework. The weight given to conflicts with development plan policies may also be affected by the circumstances of the case, including the particular purpose of the policy, whether there is a failure to achieve a five year HLS and the reasons for this, the extent of the shortfall and any steps being taken to address it. In this regard, I note that in other appeal decisions⁵ in the district, Inspectors have taken a different view, and found that Policy RUR 2 was not out of date, and that the relevant housing policies which seek to protect the countryside are broadly consistent with the aims of the Framework. I also share this view regarding the consistency with the Framework and given that a 5 year housing land supply (HLS) can be demonstrated (see below), I consider that the LP policies for the supply of housing are up-to-date and still serve a useful planning purpose. To conclude otherwise would be inconsistent with the thrust of the Supreme Court judgement in the *Suffolk Coastal v Hopkins Homes* case.

Planning Balance and Conclusions

23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This is explicitly confirmed in paragraph 12 of the Framework which states that the development plan is the starting point for decision making. I recognise that there are policies in the development plan that are supportive of the provision of additional housing. However, I have found the site would not provide a suitable location for housing due to the harm that would be caused to the character and appearance of the countryside, including its effect on the Blackwater Valley Strategic Gap. I have identified that the proposed development would be in conflict with saved policies GEN 1, GEN 3, CON 19, CON 20, RUR 2 and RUR 31 of the LP. It would therefore be contrary to the relevant policies, and the development plan as a whole. I consider that the policies referred to above which seek to protect the countryside are broadly consistent with the Framework policies.
24. The Council have submitted their Housing Land Supply Report published in October 2018, which demonstrates a HLS of 9.9 years. There is no substantive or robust basis to conclude that the Council does not have a deliverable 5 year

³ Appeal ref: APP/W1715/W/18/3194846 at Land at Satchell Lane, Hamble-le-Rice dated 20th December 2018; Appeal Ref: APP/N1730/W/17/3185513 Broden Stables, Redlands Lane, Crondall, Farnham GU10 5RF, dated 23rd August 2018; Appeal Ref: APP/N1730/W/17/3167135 Land North of Netherhouse Copse, Fleet, Hampshire dated 06 October 2017; and Appeal Ref: APP/N1730/W/15/3127962 Moulsham Lane, Yateley, Hampshire GU46 7RA dated 24 August 2016.

⁴ Appeal Ref: APP/N1730/W/17/3185513 quashed on 14 May 2019.

⁵ Land at Stapley Manor Farm, Odiham, Appeal Ref: APP/N1730/W/16/3154888, dated 27 April 2017; and Land north of Warbrook Lane, Eversely, Hook, Hampshire Appeal ref: APP/N1730/W/18/3198552 dated 10th December 2018.

HLS at this particular point in time. Therefore, a presumption in favour of sustainable development does not apply.

25. There would be social and economic benefits associated with the provision of nine houses, even though the Council can demonstrate a healthy supply of sites. The proposal would also contribute to the local economy in terms of short term employment in the construction industry and longer term investment in shops and businesses. Taken together, given the limited scale of the development these benefits carry limited weight. There are no material considerations of sufficient weight or importance that determine that the decision should be taken otherwise than in accordance with the development plan and therefore planning permission should be refused.
26. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

R Satheesan

INSPECTOR