



Appeal Decision

Site visit made on 26 November 2019

by M Heron BA (Hons) MA MRTPI

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

Decision date: 23rd March 2020

Appeal Ref: APP/Y3615/W/19/3228046

Glengarden, Clandon Road, West Clandon GU4 7TL

- 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 and Mrs Scotland against the decision of Guildford Borough Council.
 - The application Ref 18/P/02430, dated 19 December 2018, was refused by notice dated 12 February 2019.
 - The development proposed is the erection of a new 5-bedroom detached house and a new access and garage for the existing property in the grounds of Glengarden.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new 5-bedroom detached house and a new access and garage for the existing property in the grounds of Glengarden at Glengarden, Clandon Road, West Clandon GU4 7TL, in accordance with the application Ref 18/P/02430, dated 19 December 2018, subject to the conditions in the attached schedule.

Procedural Matter

2. During the determination of this appeal the Council adopted the Guildford Borough Local Plan: Strategy and Sites (LPSS). Policies P2, P5 and ID4 of the LPSS supersede Policies RE2 and NE1 of the Guildford Borough Local Plan (LP) which are referenced in the Council's decision notice. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the integrity of the Thames Basin Heaths Special Protection Area (TBHSPA); and
 - if the proposal is inappropriate, whether any 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 it.

Reasons

Whether or not the Proposal Would be Inappropriate Development

4. Glengarden is a large, detached, property which is set in generous grounds. It has two associated detached garages positioned to its side. The proposal seeks permission to subdivide this existing plot and construct a detached dwelling following the removal of these garages. A new access and garage would also be provided for the existing property.
5. The National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless for one of a limited number of specified exceptions. One such exception is at paragraph 145(e) of the Framework which is for limited infilling in villages. Policy P2 of the LPSS states that new buildings in the Green Belt will be considered inappropriate unless they fall within the list of exceptions in the Framework.
6. The appeal site is outside of the settlement boundary of West Clandon, as defined by the development plan. However, the Framework does not define the term 'village'. Relevant case law¹ also shows that the village boundary defined on a proposals map should not be determinative where it does not accord with the assessment of the extent of the village on the ground. Such an approach is echoed in the supporting text to Policy P2 of the LPSS. This states that the decision maker is required to consider whether the site is located within the village, with identified boundaries being at most a relevant part of this consideration. It also states that the built form of many villages extends wider than their boundaries.
7. Clandon Road extends north from the settlement boundary of the village, which is only approximately 130 metres away from the appeal site. The part of the street in which Glengarden is located is characterised by substantial, detached, dwellings set in large plots on either side of the carriageway. Although these dwellings are set back in verdant plots, their suburban form and associated domestic paraphernalia (including boundary treatment) is apparent from Clandon Road. This gives this part of the street a suburban feel in contrast to the open, undeveloped, fields beyond properties.
8. I appreciate that the pattern of development along this street is not as dense as some of the development to the south. Nonetheless, it is not unusual for villages to comprise areas which vary in terms of their layout and density. In addition, I observed bus stops along this section of Clandon Road which could be safely accessed by foot from the appeal site. I therefore have no substantive evidence to show that the proposal would function differently from development within the nearby settlement boundary in terms of access to services and facilities.
9. Therefore, although properties along this part of Clandon Road are larger and have bigger gardens than development within the village boundary to the south, they are visually and functionally connected to the village. Consequently, notwithstanding development plan proposals maps, I consider that the appeal site should be regarded as being within the village of West Clandon.

¹ *Julian Wood v SSCLG and Gravesham Borough Council* [2014] EWHC 683 (Admin).

10. I also note that the Highway Authority has considered amending the speed limit along this part of Clandon Road to 30mph to be consistent with roads within the settlement boundary. However, this was not realised in the absence of adequate funding for traffic calming measures. Furthermore, the Council's document entitled 'Guildford Borough Settlement Profiles' states that the village of West Clandon extends beyond the defined settlement area. This reinforces my findings in terms of the appeal site falling within the village.
11. The Council is satisfied that the proposal would represent limited infilling. With regard to the scale of the proposal and having visited the site, I see no reason to conclude otherwise. The proposed development would therefore constitute limited infilling within a village and would meet the exception identified at paragraph 145(e) of the Framework.
12. For this reason, I conclude that the proposal would not be inappropriate development in the Green Belt with regard to the Framework. Accordingly, it should not be regarded as harmful to the openness of the Green Belt or indeed in terms of the purposes of including land within it. The proposal would also accord with Policy P2 of the LPSS insofar as it only permits new buildings in the Green Belt which meet the exceptions of national planning policy.

Special Protection Area

13. In 2018 the Court of Justice of the European Union held that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at screening stage². This is a responsibility that now falls to me as the competent authority.
14. The evidence before me shows that the appeal site is approximately 4.5km west of the TBHSPA a protected European site. It is therefore within a 'Zone of Influence' for the SPA and it is likely that occupants of the proposed development would visit it. Consequently, when combined with other development in the area, this scheme would have a likely significant effect on this habitat designation through increased disturbance as a result of recreational activity.
15. In such circumstances, the Habitats Regulations require that permission may only be granted after having ascertained that it will not harm the integrity of a European site. I may consider any restrictions which could secure mitigation and provide certainty that the proposal would not harm the SPA. The Council already has strategic measures in place to mitigate impacts upon European sites. This includes the provision of areas of Suitable Alternative Natural Green Space (SANG). Natural England (NE) do not object to this strategy.
16. In this case, the Council is requesting a SANG financial contribution. This could be spent on upgrading the Effingham Common SANG, which is relatively close to the appeal site. It is also requesting a contribution towards its programme of Access Management and Monitoring to ensure that mitigation measures are appropriately implemented. During the course of this appeal the appellant has provided an executed S106 Agreement. This would secure a SANG contribution of £9120.58 and an Access Management and Monitoring contribution of

² People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

£999.82. I have no evidence to show that these fees are not proportionate to this appeal proposal.

17. Following the completion of the S106 Agreement, the Council withdrew its objection in relation to this matter. In addition, I have consulted NE and it is content that the secured financial contribution would be effective in terms of avoiding adverse impacts to the integrity of the SPA. There is no evidence before me to suggest I should reach a contrary conclusion.
18. As such, I am satisfied that the S106 Agreement is an appropriate mechanism to secure the delivery of proportionate and relevant mitigation in respect of the TBHSPA. I am therefore content beyond all reasonable scientific doubt that the proposal would not adversely affect the integrity of the SPA. Thus, it would accord with Policies P5 and ID4 of the LPSS, Policy NE4 of the LP, Policy NRM6 of The South East Plan – Regional Spatial Strategy for the South East and the provisions of the Conservation of Habitats and Species Regulations 2017 as amended. Amongst other things, these seek to secure the long term protection of Special Protection Areas and mitigate any harmful impacts to them.

Other Considerations

19. The proposed dwelling would be consistent with the scale of nearby properties and would be set in spacious grounds. It would be seen in the context of the suburban development along both sides of this part of the street. The Council has raised no objection to the impact the proposal would have on the character and appearance of the area and I see no reason to conclude otherwise on this matter.
20. I also note that concerns have been raised with regard to this proposal setting a precedent for other developments in the area. However, the Council would retain the right to assess each scheme on its own individual planning merits, as I have done here.

Conditions

21. I have considered the conditions put forward by the Council. Having regard to the tests set out in paragraph 55 of the Framework, I have amended the wording where necessary in the interests of clarity and simplicity. In addition to the standard time limit, a condition specifying the plans is required in the interests of certainty.
22. I have imposed a condition ensuring that the development is carried out in accordance with the submitted Tree Schedule and Arboricultural Impact Assessment and the Tree Protection Plan shown on drawing SP01 Rev. C. This is necessary in the interests of the character and appearance of the area. I have also imposed conditions requiring details of materials to be used for the external surfaces of the approved buildings and a suitable Landscaping Plan. These are also necessary in the interest of the character and appearance of the area.
23. A condition requiring first floor side facing windows to be fitted with obscure glazing is necessary in the interests of the living conditions of the occupants of surrounding properties. I also consider that a condition requiring the submission of an Energy Statement, including details of carbon reduction/efficiency and electric charging points for the new dwelling, is necessary in the interest of environmental sustainability.

24. I have imposed a condition requiring the appropriate demolition of the existing outbuildings as shown on plan BP01 Rev. C. In addition, I have imposed a condition removing permitted development rights for the enlargement of the approved dwelling and the construction of buildings incidental to the enjoyment of this dwelling. These are reasonable and necessary in the interest of the openness of the Green Belt.
25. Furthermore, I have imposed a condition requiring the new access to be constructed with suitable visibility splays prior to first occupation of the new dwelling. Conditions ensuring that there is appropriate space for parking and turning at the site and requiring hardstanding areas to be suitably permeable or porous are also imposed. These are all necessary in the interest of highway safety.
26. The Council has requested a condition ensuring that the development must comply with Building Regulations in terms of water efficiency. However, such matters are managed through separate legislation. Consequently, I do not consider that it would be reasonable to impose such a condition.

Conclusion

27. For the reasons set out above, the appeal scheme would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, the appeal should be allowed.

M Heron

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: BP01 Rev. C, SP01 Rev. C, SP02 Rev. A, SPO3 Rev. A, SP04, SS01, SS02, X01, 05 and G01 Rev A.
- 3) The tree protection measures as shown on drawing SP01 Rev. C shall be erected in accordance with this approved plan before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from site. The development shall also be carried out in accordance with the measures outlined within the Tree Schedule and Arboricultural Impact Assessment.
- 4) No development shall commence above slab level until detailed specifications for the materials to be used for the external surfaces of the buildings hereby granted have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.
- 5) The dwelling hereby permitted shall not be occupied until the windows formed in its side elevations have been fitted with obscured glazing, and no part of these windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.
- 6) No development shall commence above slab level until an Energy Statement, including measures for carbon efficiency/reduction and details of electric charging points for the approved dwelling, has been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details.
- 7) Prior to the first occupation of the dwelling hereby permitted, a Landscaping Plan, including details of boundary treatments, hard surfacing and any gates, piers or walls formed forward of its principal elevation shall be submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details prior to first occupation.
- 8) Prior to the first occupation of the dwelling hereby approved the existing outbuildings as shown on drawing BP01 Rev. C shall be demolished. All materials associated with these buildings shall be removed from the site prior to the first occupation of the approved dwelling.
- 9) Prior to the first occupation of the dwelling hereby approved, the new vehicular access to Clandon Road shall be constructed and provided with visibility zones in accordance with the approved plans. Thereafter the visibility zones shall be kept permanently clear of any obstruction over 1m high.
- 10) Prior to the first occupation of the dwelling hereby approved space shall be laid out within the site for vehicles to park and turn so that they may enter and leave the site in a forward gear as shown on approved plans. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.

- 11) The hardstanding areas hereby permitted shall have permeable (or porous) surfacing which allows water to drain through, or surface water shall be directed to a lawn, border or soakaway.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no enlargement of the approved dwellinghouse or the construction of buildings incidental to the enjoyment of this dwellinghouse, as permitted by Classes A and E of Part 1 of Schedule 2 of that order, shall take place.

End of Schedule of Conditions