



Appeal Decision

Site visit made on 2 September 2020

by S R G Baird BA (Hons) MRTPI

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

Decision date: 21 October 2020

Appeal Ref: APP/Q3630/W/20/3253944

Land off Rosemary Lane, Thorpe, Surrey TW20 8PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Simco Homes & Careys New Homes against the decision of Runnymede Borough Council.
 - The application Ref RU.18/1838, dated 31 October 2018, was refused by notice dated 30 December 2019.
 - The development proposed is for the erection of up to 83 dwellings and associated access.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 16/9/2020.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters other than access reserved. The application included a sketch layout showing 83 dwellings, which for the purposes of this decision is treated as being illustrative only.
3. Reasons for Refusal (RfR) 1 and 8 refer to conflict with the Runnymede Borough Local Plan Second Alteration 2001 where the site was in the Green Belt. The Runnymede 2030 Local Plan (LP) was adopted in July 2020 and the site removed from the Green Belt. As such RfR 1 and 8 are not relevant.

Main Issues

4. These are:
 1. whether the proposal would prejudice the preparation of the Thorpe Neighbourhood Plan by pre-determining decisions about the scale and location of development;
 2. whether there is enough detail to allow access to be determined now;
 3. the implications for biodiversity;
 4. the effect on the setting of West End Farm, a Grade 2 Listed Building;
 5. whether the proposed development would provide an acceptable living environment for prospective residents with reference to traffic noise;
 6. whether the site can be adequately drained;

7. whether the proposal would represent a sustainable, high-quality development.

Reasons

Issue 1 - Prematurity

5. Prejudice to the preparation of the Thorpe Neighbourhood Plan (TNP) is not a reason for refusal. However, it is a matter at the forefront of representations made by the Thorpe Neighbourhood Forum, the Residents Association and numerous individuals. The objective of neighbourhood planning is to give communities the power to develop a vision for and shape the development of their area. Amongst other things, Neighbourhood Plans enable a community to choose where it wants new homes to be built, what they should look like and what infrastructure should be provided. Neighbourhood planning is a key part of the development plan process and it is important that the community retains confidence in the process and their ability to shape their neighbourhood.
6. LP Policy SD1 and Table 3 outline the spatial development strategy for and distribution of housing growth over the plan period. The expected minimum growth delivery for Thorpe is listed as 89 net additional dwellings with the scale and location of these dwellings dealt with by a Neighbourhood Plan.
7. One objective of the TNP is to ensure the village setting is maintained particularly on its western edge through a buffer between the village, the Thorpe By-Pass and M25. The TNP allocates 3 sites for residential development with a minimum of 74 dwellings in total. Policy TH2(i) allocates the appeal site for some 24 dwellings and public amenity space. The concept drawing for this allocation shows the western edge of the site as amenity space, the dwellings positioned towards the eastern side of the site and vehicular access from Rosemary Lane.
8. The National Planning Policy Framework (Framework) paragraphs 49 and 50 set the context for considering the timing and limited circumstances when a proposal may be considered premature. Framework paragraph 50 indicates that a refusal on the grounds of prematurity will seldom be justified before the end of the Regulation 16 publicity period on the draft plan. Here, the TNP was submitted to the Council in June 2020, the consultation period ran until mid-August and it is envisaged that the TNP will be examined in September 2020 with a referendum to be held in mid-2021. Accordingly, the TNP is at an advanced stage of preparation. Given the scale of the proposal and the conflict with Policy TH2(i), the proposal would be so substantial, and its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions.

Issue 2 - Access

9. The means of access to the site from the public highway is shown through a series of drawings that form part of the Transport Assessment (TA) and the illustrative layout submitted with the application. In line with the requirements of the Highway Authority (HA), the TA shows, that vehicular access to the site for all but 3 of the proposed dwellings would be via a new access onto the Thorpe By-Pass. Rosemary Lane to the east would be closed to vehicular traffic. Coltsfoot, which has an existing vehicular access onto Rosemary Lane,

would be demolished, the access closed and used solely for pedestrians and cyclists. The HA has no objection subject to the imposition of conditions.

10. The access from the by-pass, the widening of Rosemary Lane up to the site access and the works to close off Rosemary Lane to the east all are within the site or the public highway. Similarly, the proposed off-site works to improve footpath provision to the east of Rosemary Lane and at the junction with The Bence appear capable of being implemented within the highway. As such there is no reason to conclude that these works could not be implemented. Indeed, it is hard to imagine that the HA would have posted a lack of objection if that were not the case. Most of the dwellings within the site would be served by a shared-surface highway. Given that the alignment of this road would be determined by the layout of the development, a reserved matter, there are no details other than the illustrative plan. However, the site is large enough size to accommodate residential development and internal servicing.
11. The site is crossed by 2 public footpaths, FP53 running from Rosemary Lane in the north to the south-west corner of the site and west across the by-pass and FP52 running east from Rosemary Lane (between Coltsfoot and May Rana) to join FP53. The illustrative layout shows the footpaths within the site diverted along the proposed estate roads and using the line of the former driveway to Coltsfoot as the pedestrian and cycle link to Rosemary Lane in the north. The existing line of FP52 where it passes between Coltsfoot and May Rana is narrow and given its appearance and condition looks as though it is rarely used. Pedestrians accessing the public footpath network use an informal link created from FP53 through woodland on the edge of the Frank Muir playing fields. The illustrative layout provides that this link could be maintained if desired.
12. Drawing the above together, the proposal is accompanied by enough detail to enable access to be determined now. Precise details of the construction of the accesses and off-site highway improvements are matters that could appropriately be dealt with by condition.

Issue 3 - Biodiversity

13. The Framework and LP Policy EE9 seek a net gain for biodiversity. Planning Practice Guidance¹ (PPG) defines biodiversity net gain as works which deliver "*measurable improvements... by creating or enhancing habitats in association with development.*" The application included a Preliminary Ecological Assessment (PEA) and an Emergence and Activity Bat Survey. The PEA concludes that whilst the site is of low ecological value, some of the buildings to be demolished contain bat roosts and mitigation measures were recommended. Other than these measures, the proposal does not consider biodiversity net gain.
14. The site is within the 5km zone of influence of the Thames Basin Heath Special Protection Area (SPA). Research shows that new dwellings within this zone are likely to generate additional recreational activity, causing disturbance and damage to the habitat resulting in a significant impact on the integrity of the SPA. Thus, without mitigation, the proposal would adversely affect the integrity of the SPA. Natural England and the Council have in place established mitigation measures and subject to a financial contribution being secured, suitable mitigation can be provided. Accordingly, the appeal proposal would

¹ Natural Environment - Paragraph 022, Reference ID: 8-022-20190721

not have an adverse effect on the integrity of the SPA and would not conflict with LP Policy EE10.

15. Notwithstanding my conclusion on the effect on the integrity of the SPA, the proposal, in the absence of a consideration of biodiversity net gain, conflicts with the objectives of LP Policy EE9 and the Framework.

Issue 4 - Heritage

16. The proposal includes land to the immediate west of West End Farm, a Grade 2 Listed Building (LB). LP Policy EE4 indicates that development within the curtilage or within the vicinity of a LB, should preserve and/or enhance its setting and any features of special architectural or historical interest which it possesses. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving the setting of a LB.
17. The RfR asserts that the development, by reason of its position and scale, would result in substantial harm to the setting of the LB. Setting itself is not a heritage asset (HA) or designation, rather its value is in what it contributes to an asset's significance or the ability to appreciate that significance. Significance is defined as the value of a HA to this and future generations because of its heritage interest, which may be archaeological, architectural, artistic or historic. Notwithstanding Framework paragraph 190, the Council's conclusion that the development of the land to the west would result in substantial harm, which is a high test, is unsupported by any assessment of the significance of the LB or the contribution the setting has to its significance.
18. The significance of West End Farm is derived largely from its architectural and historic interest as a 16th century former farmhouse albeit it appears to have been significantly altered and extended since then. As a former farmhouse, the open land to the west, north and south contributes to its historic significance. However, given the existing enclosure of the building with its high walls, the extent of that setting is restricted to a limited area to the north, south and west. Given the proposal is to develop land immediately to the west of the LB, inevitably there would be an impact on its setting. However, the layout plan on which the Council bases its decision is illustrative with scale, appearance and layout being reserved matters. In these circumstances, the effect on West End House could be mitigated through careful layout and design such that the effect would fall within the spectrum of less than substantial harm.
19. Framework paragraph 196 indicates that in such circumstances, the harm is to be weighed against the public benefits of the scheme. The provision of affordable housing, the economic benefits to the settlement of inward investment and the contribution residents would provide to the viability of existing community and commercial facilities are public benefits, which here, would outweigh the less than substantial harm identified.

Issue 5 - Noise

20. The site is located adjacent to the Thorpe By-Pass and the M25. The Framework and LP Policy EE2 seek to ensure that noise does not give rise to significant adverse impacts on health and the quality of life. The appellants' Noise Impact Assessment (NIA) acknowledges that dwellings and gardens on the western side would be subject to high levels of daytime noise. The

application is in outline and the quantum, layout and construction of the dwellings are all reserved for subsequent applications. In this context, notwithstanding the high-risk status of the site, it is clear from the NIA that with careful design and layout development could take place in a way that would not result in unacceptable living conditions for residents through noise.

Issue 6 – Surface Water Drainage

21. The submitted Flood Risk Assessment and Development Drainage Strategy considered infiltration as a way of disposing off the surface water run-off. However, the site is located within a Groundwater Source Protection Zone where the Chertsey Pumping Station provides a public water supply from abstraction boreholes. Here, direct infiltration of surface water drainage is not recommended to avoid contamination to the water supply. Moreover, on-site testing indicates that ground conditions unsuitable for an infiltration-based drainage strategy. Thus, the proposal is not supported by a workable surface water drainage strategy. In these circumstances, the Lead Local Flood Authority (LLFA) recommended the refusal of planning permission. Whilst there may be a solution to the issue of surface water disposal, given the importance of the site within the groundwater protection zone, it would be inappropriate to grant permission without an indication of a working scheme. As such, the proposal would conflict with the objectives of LP Policy EE13.

Issue 7 – High Quality and Sustainable Development

22. In relation to this RfR, the Council appears to row back from the relevance of directing traffic away from Rosemary Lane. LP Policy SD1 indicates that the District's growth aspirations will largely be directed towards the most sustainable larger settlements. These are considered the best locations for delivering supporting infrastructure as well as active and sustainable travel choices. Thorpe is listed as a settlement that could accept additional development. Thus, by definition, Thorpe is recognised by the LP as a sustainable location for development and whether a proposal directs traffic away from roads within the village has nothing to do with the sustainability of Thorpe as a location for development.
23. Thorpe has developed and extended over time with a variety of house types, designs and densities such that there is no distinct character or design cues that a development should follow. That said, in preparing the Design and Access Statement, the appellants have sought to reflect examples of design, layout and density found elsewhere. Moreover, layout and appearance are reserved matters, where the Council would have further control.
24. The Council suggests that the site layout *"...would not look inward to the village or become an integral "organic" addition to it."* However, those assertions fail to recognise, the access realities of the site and the relationship of the site to the settlement. On access, the HA makes it clear that Rosemary Lane is substandard and the junction with Green Lane, currently the only way out to the south, is severely substandard such that *"...any additional transport load at this point would be unacceptable."* The existing dwellings on Rosemary Lane to the north-east of the site and their densely planted gardens and boundaries create a physical and visual boundary to the rest of the settlement. In this context it is hard to envisage any development of this site being able to be organic and inward looking. Moreover, to achieve the TNP's objective of a development of 2 and 3-bedroom houses with a focus on first-time buyers and

rented accommodation any development would need to display higher densities than the settlement in general.

25. Drawing the above together, albeit all matters, other than access, are reserved, the illustrative scheme would reflect a high-quality sustainable development consistent with LP Policy EE1.

Planning Balance

26. Notwithstanding my conclusions on matters of: access; the effect on the SPA; heritage; noise; sustainable development and the economic and social benefits that would flow from this development, these matters are outweighed by the prejudice to the preparation of the Thorpe Neighbourhood Plan and the absence of detail regarding biodiversity net gain and surface water drainage. In these circumstances, the proposal would conflict with the objectives of the development plan when taken as a whole and the appeal should be dismissed.

Other Matters

27. The Council identifies 4 areas that require securing by a Planning Obligation. These are: mitigation measures in respect of the SPA; early and primary years education contributions; affordable housing and outdoor sport and recreation facilities. The appellants have submitted draft Heads of Terms in relation to the first 3 of the requested obligations and make no reference to the fourth. However, no Obligation has been submitted and as the appeal is being dismissed for other reasons, these are matters that do not need to be pursued.

Conclusions

28. For the above reasons and having taken all other matters into consideration, this appeal is dismissed.

George Baird

Inspector