



Appeal Decision

Hearing Held on 13 January 2021

Site visit made on 27 January 2021

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 22nd February 2021

Appeal Ref: APP/K3605/W/19/3242661

Painshill Farm, Portsmouth Road, Cobham KT11 1DN

- 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 Cobham Care Home Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2018/2432, dated 7 August 2018, was refused by notice dated 24 October 2019.
 - The development proposed is redevelopment of the site to provide a C2 care home with a total of 70 rooms, of which 35 will be dedicated to dementia care, integrated communal and support facilities; landscaped residents' gardens; staff areas; refuse storage; associated infrastructure and services; and biodiversity and landscape enhancements to the wider site.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Hearing sat for 1 day. I subsequently undertook an unaccompanied site visit on a separate day.
3. Following the Hearing a certified and duly executed planning obligation in the form of a unilateral undertaking was submitted under section 106 of the Town and Country Planning Act 1990 (s106). The s106 makes obligations that are intended to limit the use of the proposed development to only that described in the description of development and restrict car parking to only those associated with the proposal.
4. Taken together, these obligations are aimed at reducing the risk of adding additional recreational pressures on the Thames Basin Heaths Special Protection Area (SPA) and meeting the requirements of Policy CS13 of the Elmbridge Core Strategy (Core Strategy). The Council expressed a view at the Hearing that the contents of the s106 met these aims and the concerns expressed in their second reason for refusal.
5. I am satisfied that the obligations meet the tests in paragraph 56 of the National Planning Policy Framework (the Framework) and can be taken into account in reaching my decision. However, given my overall conclusions on this appeal, it has not been necessary for me to consider the effects on the SPA any further.

Main Issues

6. The main issues in the appeal are:

- The effect of the proposed development on the openness of the Green Belt.
- Whether the location would be a sustainable one, paying particular regard to sustainable transport objectives.
- The effects on the local highway network, with particular reference to access and parking.
- Whether acceptable living conditions would be provided for residents and other users, when particular regard is paid to air quality.
- Would harm by reason of inappropriateness, and any other harm resulting from the proposal, be clearly outweighed by other considerations so as to amount to very special circumstances.

Reasons

Effect on openness of the Green Belt

7. It is common ground between the Appellant and the Council that at least part of the site constitutes previously developed land. In order to confirm whether the proposed development would be inappropriate development I have therefore considered whether any of the exceptions at Paragraph 145 of the Framework apply. Paragraph 145(g) is of particular relevance as it creates an exception for partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
8. The site sits in an elevated position beyond the more built up confines of Cobham. The major road network provides a dominant feature beyond part of the site boundary (including the roundabout that serves the A245 Portsmouth Road and the A3). Other sides of the site facing Cobham itself are more exposed to the valley below as it moves towards the River Mole with trees and other planting providing a mostly undeveloped setting. Part of the site is overgrown and heavily wooded in places. This, along with the topography and boundary structures, prevents views across the site and provides an element of containment.
9. The proposed building would be of a greater footprint and scale than the 2 bungalows that currently occupy the site. It would also represent a single mass of built form, albeit stepped, in contrast to the smaller scale and scattered nature of the existing bungalows and associated ancillary structures.
10. Although the layout of the proposal would incorporate areas of green and open space, the main building itself, coupled with parking areas, hardstanding and other associated spaces, would fundamentally change the character of the land to one more urban.

11. Wider views in the more distant landscape, in particular the areas of Green Belt beyond the A3, would not be available due to the topography and the visual buffer provided by the major road network. Closer views would be available from both the adjacent roundabout and the valley below. In these views the change in the character of the land would be perceived mainly as a result of the scale of the proposed building and the greater formality that would be brought to the wider site by its development.
12. Overall, when both the spatial and visual effects are considered, the impact of the proposed development in comparison to the existing circumstances would be such that it would have a greater impact on the openness of the Green Belt than the existing development. As such, the exception at Paragraph 145(g) of the Framework does not apply and the proposal would therefore be inappropriate development.
13. In reaching my conclusions on openness I acknowledge that the degree of impact would be reduced by the visual buffer provided by the major road network and the topography. I also note the efforts the Appellant has made to limit the impact of the proposal, in particular in considering layout choices. Notwithstanding the Appellant's points on these issues, they also acknowledge that the proposal represents inappropriate development in the Green Belt.
14. I also recognise that the Appellant and the Council agree that the proposal would have limited impact on the purposes of including the land within the Green Belt. This does not affect my conclusions on whether it is inappropriate development. Any proposals in an emerging Local Plan to make provision to release the site from the Green Belt would need to be subject to examination and wider engagement and can therefore be given very limited weight in this appeal.
15. In conclusion, the proposed development would be inappropriate development in the Green Belt. Paragraph 143 of the Framework therefore indicates that the proposal is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Consequently, there is also conflict with Policy DM17 of the Elmbridge Development Management Plan (Development Management Plan) in relation to development of new buildings in the Green Belt.

Sustainability of the location

16. Policy CS25 of the Core Strategy seeks to promote improvements to sustainable transport, with CS25(1) directing new development that generates a high number of trips towards sustainable locations in urban areas, including town centres and areas with good public transport accessibility.
17. The proposal would have different transport characteristics to other uses, including general C3 housing, not least as there would be additional needs relating to staff and other visitors. Based on the nature of the use, many residents of the care home may not be regular car users and many may be unable to venture beyond the site and would therefore be reliant on the facilities provided from within it. As such, considerations in relation to meeting sustainable transport objectives principally relate to accessibility for staff and visitors, rather than residents.

18. The text that supports Policy CS25 provides no specific definition of what is to be regarded as a development generating a high number of trips. Considering the scale of the proposal, nature of the use, and the Appellant's evidence on traffic generation, as a matter of fact and degree I am of the opinion that the development has the potential to generate a high number of trips.
19. In terms of public transport access, the most convenient option for many users of the proposal would be bus services which pass the site travelling between Cobham and other settlements. These services are not especially frequent and the evidence on the extent of evening services is unclear.
20. The Appellant's transport evidence indicates that bus stops to access these services are some 475 metres away from the site on the other side of the valley in Cobham. This distance, coupled with the topography, would make bus services inaccessible for those less able to walk longer distances. Further, from my site visit I noted that the footway immediately outside the site along the A245 is narrow at a key corner. The fast moving traffic passing in this location gives a feeling of exposure, that may feel unsafe to some users. It is also noted that the section of footway along the A245 adjacent to the site relies on lighting on the other side of the road.
21. Overall, the location, general accessibility, major road network, and distance from bus stops would severely limit the practicality and attractiveness of utilising public transport options for many users of the proposed development. Cycling may be an option for some, and could be encouraged through the provision of facilities on site. However, this is unlikely to be a major form of transport for users.
22. As such, there is a strong likelihood that the private motor vehicle will be the main viable option for many users of the proposed development and that those without a car would find it hard to access. I have considered the Appellant's travel plan that includes a range of measures and initiatives that will assist in minimising car usage to a degree. This includes the provision of a mini bus as discussed at the Hearing. However, the evidence provided does not demonstrate that these measures would adequately mitigate this issue to an acceptable degree. In reaching a view on this issue I recognise that opportunities to utilise sustainable transport options vary between areas.
23. In conclusion, the location would not be a sustainable one for the proposed development, when particular regard is paid to sustainable transport objectives. Consequently, there is conflict with Policy CS25 of the Core Strategy which aims to direct new development towards sustainable locations.

Effects on the local highway network

24. The proposed development would include 2 vehicle access points as part of a one way system that utilises both the A3 slip road and the A245. It is noted that Highways England and the County Highway Authority raised no objection to the accesses. This is subject to changes to improve visibility which could be made from within the site boundary.

25. Although the proposal represents a relatively high trip generating use, the accesses would utilise major roads capable of accommodating the level of use without causing an inconvenience to other road users. The experiences of those who live in the area and use the roads regularly are valuable. However, there is no firm evidence to demonstrate that use of the accesses as proposed represents an obvious risk in highway safety terms.
26. Turning to parking, the proposal would make provision for 35 car parking spaces within the site. This is at the maximum allowable under the Council's standards and appears satisfactory when the Appellant's transport evidence is considered. The Council's arguments relating to risks of demand for parking leading to overspill beyond the site are generalised and lacks firmer evidence.
27. For the reasons discussed, the evidence demonstrates that the proposed development would not have a harmful effect on the local highway network, when particular regard is paid to access and parking. Consequently, I do not find conflict with Policy DM7 of the Development Management Plan which seeks to ensure safe and convenient access to and from the highway and appropriate parking provision that accords with local parking standards.

Living conditions – future residents

28. The nature of the proposal in a location close to the major road network and the potential sensitivity of users to pollutants justifies more detailed assessment of the air quality impacts under Policy DM5(c) of the Development Management Plan.
29. I have carefully considered the Appellant's Air Quality Assessment submitted as part of the appeal and the Council's response to it. The baseline evaluation in the report utilises data from beyond the immediate vicinity of the site. However, the information represents a suitable proxy and is cross referenced with other information as necessary and, as such, it represents a reasonable basis on which to carry out the assessment.
30. It is noted that the additional data produced by the Council is unverified and therefore, whilst of relevance, cannot be fully relied upon as a single source of information to satisfactorily counter the conclusions in the Appellant's Air Quality Assessment.
31. Overall, considering all the available evidence on this matter, I accept the Appellant's finding that air quality does not represent a material constraint to development of the site. This is subject to the mitigation measures suggested in the Assessment, including additional tree planting, which could be the subject of a condition.
32. The Council's preparation of a Climate Reduction Action Plan may feed into future planning policy but does not in itself provide a consideration that can be given weight in this appeal based on the evidence provided.
33. For the above reasons, the evidence demonstrates that the proposal would provide acceptable living conditions for future residents and other users, when particular regard is paid to air quality. Consequently, I do not find conflict with Policy DM5 of the Development Management Plan which resists proposals where air quality may have a harmful effect on the health of future occupiers of the development.

Other considerations

34. It is common ground between the Council and the Appellant that the proposal would meet a need in the area for specialist older persons accommodation (including nursing and dementia bed spaces). The 35 dementia care bed spaces, that are proposed as part of the 70 bed development, would help to meet this need.
35. The Appellant's Care Needs Assessment (Needs Assessment) adopts a reasonable general methodology and approach to defining catchment areas. As such, it is a credible basis on which to judge the scale of need for specialist older persons accommodation. In the absence of contradictory evidence, the Needs Assessment also satisfactorily points to a level of unmet need into the longer term.
36. The Appellant's evidence also highlights the difficulties in identifying suitable and available sites for specialist accommodation and the advantages of new build construction versus conversion of existing buildings in terms of being able to tailor spaces towards the needs of residents.
37. For the reasons set out above, the potential of the proposal to meet unmet need for specialist older persons accommodation is a matter that should be given weight in this decision.
38. In addition to meeting a need for specialist older persons accommodation, the proposal would also be beneficial in terms of meeting the wider housing needs of the area. This includes the indirect effect of providing accommodation that has the potential to free up family housing elsewhere in the area. This is at a time when the Council accepts that a 5 year supply of deliverable housing sites cannot be demonstrated. As such, general housing provision is a matter that should be given weight in this decision.
39. The proposal includes biodiversity improvements, including addressing issues linked to Japanese Knotweed. An element of these improvements would be necessary in order to mitigate the impacts of the proposal. However, I am satisfied that the biodiversity improvements go, at least in part, beyond mitigation and should therefore attract positive weight in this decision.
40. I have also considered the Appellant's evidence relating to other benefits of the scheme and I am satisfied that expansion of employment opportunities in the area is also an issue that should be given weight.

Conclusions

41. The proposal is inappropriate development in the Green Belt which is, by definition, harmful. As such, there is conflict with policies in both the Framework and Policy DM17 of the Development Management Plan. Paragraph 144 of the Framework is clear that any harm to the Green Belt should attract substantial weight.
42. I have also identified other harm as the location of the proposed development would not be a sustainable one, when particular regard is paid to sustainable transport objectives.

43. On the other hand, there are other considerations that weigh in favour of the proposal. There is a level of unmet need for specialist older persons accommodation. Based on the scale of unmet need identified, I attribute significant weight to this consideration.
44. As the Council is unable to demonstrate a 5 year supply of deliverable housing sites I also attribute significant weight to the contribution the proposal would make to more general housing provision.
45. In attributing significant weight to the 2 matters above I have paid due regard to the priority the Framework places on boosting the supply of housing to meet the needs of an area, including the needs of older people.
46. The biodiversity and employment benefits of the scheme are matters that attract more moderate weight.
47. Weighing the issues up, I conclude that the harm by reason of inappropriateness, and the other harm resulting from the proposal, is not clearly outweighed by the other considerations. Consequently, very special circumstances do not exist and the Framework and other policies direct that planning permission should be refused.
48. As the Council cannot demonstrate a 5 year supply of deliverable housing sites at present I have considered whether the presumption in favour of sustainable development at paragraph 11(d) of the Framework applies. The Green Belt is identified in footnote 6 as an area of particular importance. Harm has been identified when the proposal is assessed against the policies in the Framework that protect the Green Belt and provide a clear reason for refusal. As such, the presumption is not engaged.
49. For the above reasons and having regard to all other matters, I conclude that the appeal should be dismissed.

D.R. McCreery

INSPECTOR

Appearances at the hearing.

For the Appellant

- Paul Webster (Maple Planning and Development)
- Dan Goddard (Meedhurst)
- Ken MacKenzie
- Jessamy Venables (Carterwood)

For the Council

- Robert Naylor (Senior Planning Officer)