



## Appeal Decision

Hearing Held on 22 February 2021

Site Visit made on 23 February 2021

**by S Harley BSc(Hons) M.Phil MRTPI ARICS**

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

**Decision date: 26<sup>th</sup> February 2021**

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**Appeal Ref: APP/Y3615/W/20/3250388**

**Land off of Send Hill, Send, Woking GU23 7HR**

- 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 Crownhall Estates Ltd against the decision of Guildford Borough Council.
  - The application Ref 19/P/00721, dated 18 April 2019, was refused by notice dated 8 January 2020.
  - The development proposed, as described on the planning application form, is the erection of 9 no. residential dwellings with the associated vehicular and pedestrian access via Send Hill, car parking, secure cycle storage and landscaping on land off Send Hill, Send.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 8 no. residential dwellings with the associated vehicular and pedestrian access via Send Hill, car parking, secure cycle storage and landscaping at land off Send Hill, Send, Woking GU23 7HR in accordance with the terms of the application, Ref 19/P/00721, dated 18 April 2019, and the plans submitted with it, subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. The site location is described in different ways in different documents. The Parties have confirmed the correct location is as set out above.
3. The proposal was amended during the course of the planning application and the number of dwellings proposed was reduced from nine to eight. This is the proposal that was determined by the Council and I have considered the appeal in the same way.
4. The Send Neighbourhood Plan Referendum Version 2020 (the NP) has been published. In response to the Covid-19 Pandemic neighbourhood planning referendums that were scheduled to take place between 16 March 2020 and 5 May 2021 are postponed in line with the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) England and Wales May 2021. The Council has issued a Decision Statement detailing the Council's intention to send the NP to referendum. In accordance with the Planning Practice Guidance (the PPG) the NP can therefore be given significant weight in decision-making.
5. Policy NE1 of the Guildford Borough Local Plan 2003 (the 2003 LP) is cited on the decision notice. However, this has been superseded by Policies in the LP. Accordingly I have disregarded it for the purposes of this appeal.

6. The Council has confirmed that Send is considered to be 'Land proposed to be Inset in Villages' for the purposes of Policy S2 of the Guildford Borough Local Plan: Strategy and Sites 2019 (the LP) and Send is a suitable and sustainable location to accommodate growth. On this basis residential development on the appeal site is acceptable in principle provided that other planning policies and material considerations are satisfied.

### **Main Issue**

7. The appellant has provided a legal undertaking to address the impact of the proposal on the Thames Basin Heaths Special Protection Area (the TBHSPA) so the Council is no longer pursuing the third reason for refusal. The main issue for this appeal is therefore the effect of the proposed development on the character and appearance of the area.

### **Reasons**

8. The appeal site is about half way along Send Hill between the junction with the A247 Send Road, where the main focus of the village is, and Winds Ridge, to the south of which Send Hill becomes increasingly rural.
9. Send Hill leads into Send. It has the appearance of a country lane that has been increasingly developed over time with a mixed pattern of rural, linear/ribbon, small estate, infill and backland developments. The dwellings on the same side of Send Hill to the immediate south of the site are detached dwellings that directly front Send Hill. However, dwellings immediately opposite<sup>1</sup> and to the north<sup>2</sup> do not, although most are not particularly noticeable from Send Hill. Both towards the village centre and to the south there are houses arranged around access drives/roads leading off Send Hill. The overall character of the developed parts of Send Hill is therefore mixed residential with any green and rural character resulting mainly from its many mature trees and hedges.
10. The density of the proposed development would be higher than existing. This is generally because of long rear gardens which, for many of the existing houses, are concealed from views from Send Hill as they have relatively narrow gaps between them. As a result, in some views along Send Hill, the front walls and roofs of the existing houses appear to merge into a long, albeit varied, built form, albeit set back from Send Hill and softened by frontage vegetation and the verges.
11. The proposed houses, would be separated by parking spaces and/or gardens creating a wider gap between them than between many existing houses. There would be less space in front of the proposed dwellings at Plots 4-8 than elsewhere along and off Send Hill. However, this would be offset as most of the proposed cul-de-sac would have development on one side only and as there would be sufficient space for some planting including low hedges in front of the proposed buildings. Accordingly, although in views from the mouth of the public footpath opposite and in glimpsed views along Send Hill the proposed buildings may appear to merge, I do not find this to be significantly different to the overall character of Send Hill. I find that, in principle, the mix of two houses addressing, but set back from, Send Hill with others arranged around an access leading off it, would not be out of character.

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<sup>1</sup> St Annes, Hill Haven and Aulum

<sup>2</sup> The Hollow, The Old School and Send Hill Cottage/Broadwood/Send Hill House

12. Existing dwellings are a mix of building styles and heights, including bungalows, chalet style bungalows and two storey dwellings. The proposed scale, form, design, and materials would not be out of character with other buildings on Send Hill. The Council have confirmed that two, three and four bedroomed houses would be an acceptable mix for local needs.
13. The appeal site is some 0.4 ha of predominantly unremarkable grassland in a relatively long narrow plot that extends back from Send Hill. It is surrounded by houses in substantial gardens and is not designated in landscape terms or as a specific valued landscape. Nevertheless it provides a visually well contained open area edged with substantial vegetation and the proposed development would change this.
14. The National Planning Policy Framework (the Framework) seeks the retention/provision of accessible local services and facilities including open space, recognising that high quality spaces and opportunities for sport and physical activity are important for health and well-being. Its glossary identifies that all open space which offers important opportunities for sport and recreation and can act as a visual amenity is particularly important. Policy ID4(8) of the LP also seeks to protect open space. Policies Send 1 and Send 4 of the NP seek to protect environmental assets, including wildlife habitats and corridors, and to retain the green and rural character of Send Hill which arises from its many mature trees and hedges.
15. The Council's Guildford Open Space Sport and Recreation Assessment 2017 (the OSSRA) identifies different typologies of open space in the Borough and recognises that open space can be separate from opportunities for sports and recreation. Amongst others the typologies include: Amenity Green Space being those spaces open to free and spontaneous use by the public but not managed for a specific function; Natural Green Space covering all publicly accessible spaces which have natural characteristics and biodiversity value, but which are also accessible for informal recreation; and Private Space which includes those open spaces which contribute to green infrastructure and the overall open space asset even with no level of public access as these can still be appreciated from a distance, and can contribute to visual amenity.
16. The Guildford Assessment of Sites for Amenity Value 2017 (ASAV) examines sites which were proposed to be inset from the Green Belt to assess whether they have visual amenity and should therefore be protected from development. Site ETH\_086 in the ASAV includes the appeal site; the track and belt of mature trees to the north; and part of the adjoining rear garden of Pine Cottage.
17. Site ETH\_086 is described as having "nice mature boundary vegetation with mature oak trees, nice views into the site from the lane, but is a private garden so no public access, easy access off the road along the driveway". It is accorded Medium Value based on the Amenity Audit Spreadsheet (AAS) prepared for the Council. The appeal site, the track and belt of mature trees to the north and adjoining land behind Pine Cottage together are identified as Amenity Green Space in the OSSRA. Elsewhere the OSSRA identifies a similar area, but excluding the land behind Pine Cottage, as Private Space, although why there is a difference in these allocations is not particularly clear.
18. The appellant challenges the AAS calculation primarily in terms of access to the site; its biodiversity value given the findings of the Preliminary Ecological

Appraisal Report 2018; and double counting in respect of amenity value. Whatever the arithmetical score it seems to me that Site ETH\_086 has no direct recreational value as there is no public access onto it; has limited ecological value; but, as parts can be seen from either Send Hill or the footpath behind Pine Cottage, it has visual amenity value to nearby residents and passers-by.

19. Notwithstanding the Medium Value ascribed by the Council Site ETH\_086 has no protective designation on the LP proposals map. It has been put to me that this was an error but I give this little weight as it seems from the evidence that no protective designation has been put forward on any part of ETH\_086 in the emerging NP either (unlike for Heath Drive where part of ETH\_086 is designated as Local Green Space even though it is also considered that partial development of it could potentially could retain and potentially improve amenity value).
20. The assessment of Site ETH\_086 indicates that partial development could retain and potentially improve amenity value. The appeal proposal would occupy only part of Site ETH\_086. The substantial trees and hedges on the boundaries would not be affected and would remain as a corridor of biodiversity value as well as providing a backdrop to the proposed houses. Open space would be provided (my attention has not been drawn to any policy requiring a specific amount of on-site open space). This would, to some extent, increase public access to open space even though it would be unlikely to be used other than by residents of the proposed houses as it would be tucked behind the proposed house at Plot 1.
21. The houses at Plots 1 and 3 would have a building line similar to that of The Pines with opportunities of tree/hedge planting in the front garden of Plot 1 and on the area between Send Hill and the access track to Broadwood/ Send Hill House. Accordingly I consider that some degree of green openness would be preserved as well as openness along the proposed shared access, which could be sensitively surfaced. For these reasons I conclude that the proposed development, although it would mean the loss of the current view of open grassland, would not significantly contradict the principles of Site ETH\_068 and in due course would add mature trees and hedges aiding the green and rural character of the Send Hill Character Area E as described in the NP. It would not be so detrimental to visual amenity as to justify refusal.
22. Taking all the above into account I conclude that the effect of the proposal on the character and appearance of the area would not be harmful in planning policy terms. I find no significant conflict with Policies D1 and ID4(8) of the LP; Policy G5 of the 2003 LP; Policies Send 1 and Send 4 of the NP or those principles of the Framework that seek to protect open space and to ensure developments respect the character of the local area.
23. Third Parties have suggested that granting planning permission could set an undesirable precedent that could further erode the character and appearance of the area. However, each application and appeal is to be considered on its own planning merits. Even so I have found the proposal would not be harmful to the area and would not set a precedent for proposals that were harmful.

## Other Matters

24. The Parties agree that the Council can demonstrate a five year supply of deliverable Housing Land for the purposes of this appeal. I see no reason to reach a different conclusion. I acknowledge that the Council considers that the supply amounts to some 7.34 years whereas the appellant considers it to be some 5.18 years. Be that as it may for the purposes of this appeal Paragraph 11(d) of the Framework 2019 (the so called 'tilted balance') is not engaged.
25. The proposal would add to the supply of housing in accordance with the Government's objective of significantly boosting the supply of homes. There would be economic benefits during construction and additional spend in the local economy. More residents would support the local community in line with the NP vision that Send Parish will be vibrant and sustainable with a distinct character, good facilities, a strong sense of community and retain a rural village feel with an enhanced local centre and a mix of housing types for all.
26. The site is within the 400m to 5km zone of the TBHSPA which is a network of heathland sites that covers more than 8,000 hectares. It is predominantly dry and wet heath but also includes area of deciduous woodland, gorse scrub, acid grassland and mire, as well as associated conifer plantations. The TBHSPA provides a habitat for three internationally important bird species: woodlark, nightjar, and Dartford warbler. The TBHSPA provides an important recreational and economic resource. It is well frequented by the public and it is likely that occupants of the proposed development would visit it.
27. It is necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the development on its integrity. The evidence before me is clear that the proposal, particularly when combined with other development in the area, would have a significant effect on the TBHSPA due to an increased disturbance through recreational activity.
28. The parties have agreed a financial sum in accordance with the Council's TBHSPA Avoidance Strategy 2017 (the Avoidance Strategy) to be put towards a range of infrastructure and non-infrastructure projects. Natural England have been consulted on an Appropriate Assessment and has no comments as a completed legal agreement that provides for contributions towards Suitable Alternative Natural Greenspace and Strategic Access Management and Monitoring accompanies the proposal.
29. I am satisfied that the planning obligations secured would enable the delivery of mitigation sufficient to address the level of harm likely to be caused by the development, and would be pursuant to the Council's adopted Avoidance Strategy. I therefore find that, subject to the proposed mitigation, the proposal would not result in a significant harmful effect on the integrity of the TBHSPA and would accord with the relevant policies in the development plan.
30. The distances of the proposed houses from the windows and gardens of other dwellings combined with the orientation of the proposed houses and the retention of trees and hedges would ensure that the privacy of occupiers of adjacent properties would be sufficiently protected in planning terms. I acknowledge that nearby residents would prefer to keep their current view across open land. However, a view by residents of other houses and gardens is not unacceptable in planning terms.

31. Send Hill narrows towards the south west but in the vicinity of the appeal site is wide enough for two vehicles to pass. There is a mix of verge and paved footpath on the opposite side of the road and a verge adjoining the appeal site. Satisfactory visibility splays can be provided at the entrance and parking spaces to meet the Vehicle Parking Standards would be provided for each house. Occasional visitor parking could be accommodated along the access road. Neither the Council or the Highway Authority raise objections on highway safety grounds and I find no compelling evidence to conclude otherwise.

### **Conditions**

32. I have considered the conditions put forward by the Parties and where appropriate amended the wording to align with the Framework and the PPG more closely. As well as the standard condition specifying the time limits for the commencement of development compliance with the approved plans is necessary to provide certainty. Controls over materials for external surfaces, the provision and implementation of a Landscaping Scheme and compliance with the Tree Report including tree protection measures are necessary in the interests of the appearance of the area. Compliance with the Preliminary Ecological Appraisal Report is necessary in the interests of biodiversity.
33. A condition requiring the remediation of any unexpected contamination that might be found on the site is necessary in the interests of public health and safety. A Construction Environmental Management Plan, a Construction Transport Management Plan and control of hours of working are necessary to minimise disturbance to residents and users of the highway during the construction period. The provision of parking within the site and visibility splays are necessary in the interests of the safety and convenience of users of the highway.
34. An Energy Statement and electric vehicle charging points are required to maximise the efficient use of energy and to encourage the use of electric vehicles to reduce carbon emissions. Proof that water efficiency measures have been installed is necessary in the interests of reducing water consumption. Although a Flood Risk Assessment was submitted with the application the accompanying Drainage Strategy related to an earlier layout. It is appropriate therefore to require a revised Drainage Strategy for approval and subsequent implementation. An archaeological watching brief is necessary to ensure any archaeological evidence is adequately recorded.
35. Pre-commencement conditions relating to a Construction Environmental Management Plan; a Construction Transport Management Plan; an archaeological watching brief, an Energy Statement, tree protection proposals and Drainage Strategy are necessary to ensure the appropriate arrangements are in place before any ground works begin. The appellant has confirmed that all the conditions are acceptable.

### **Conclusion**

36. For the reasons set out above I conclude the appeal should be allowed.

*S Harley*

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:
  - Site location plan 18260 S101B
  - Plots 4 & 5 18260 P112B
  - Plots 6 & 7 18260 C113
  - Plot 8 18260 C114
  - Plot 9 18260 C115 received 10 July 2019
  - Plot 3 floor plans and elevations 18260 C111A
  - Site layout ground plan 18260 P101J
  - Site layout roof plan 18260 P102L
  - Plot 1 18260/C110A
  - street scenes 18260 1001
  - Street scenes 18260 1002
  - street scenes 18260 P105E
  - site layout 18260 C101F
  - schedule of accommodation dated 22 November 2019
  - gross internal floor areas 18260 GIA Rev A (NDSS)
  - Indicative Access Arrangements 184369\_G\_04 Rev B
  - Preliminary Ecological Appraisal Report by ACD Environmental dated 25 September 2018
  - Tree Report (including Arboricultural Impact Assessment and Method Statement) prepared by ACD Environmental, dated 4 December 2018 as revised 4 December 2019 including Tree Protection Plan CRO20693-03C
3. No development above slab level shall take place until details/samples of the materials to be used in the construction of the external facing and roofing materials of the buildings hereby permitted including colour and finish have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details/samples.
4. If during development any suspect contamination, buried structures, sources of chemical pollution or similar such material (not previously identified), is found to be present on the site then no further development, unless otherwise agreed in writing with the Local Planning Authority, shall be carried out until the developer has submitted a written remediation scheme and obtained written approval from the Local Planning Authority. Any remediation scheme shall detail the nature and extent of the discovered problem and how it shall be dealt with. The development shall be carried out in accordance with the approved remediation scheme and no dwelling shall be occupied until a written closure/validation report detailing how the approved remediation scheme has been fully implemented has been submitted and approved in writing by the Local Planning Authority.
5. No development shall commence until a Construction Environmental Management Plan (CEMP) to include details of:
  - An indicative programme for carrying out the works

- Measures to minimise the production of dust on the site
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected one metre from the affected façade of any residential unit adjacent to the site
- Design and provision of site hoardings
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of any site office

has been submitted to and approved in writing by the Local Planning Authority. These details shall be implemented for the duration of the construction works on site.

6. No development shall commence until a Construction Transport Management Plan to include details of:

- parking for vehicles of site personnel, operatives, and visitors
- loading and unloading of plant and materials
- storage of plant and materials
- measures to prevent the deposit of materials on the highway
- on-site turning for construction and delivery vehicles

has been submitted to and approved in writing by the Local Planning Authority. These details shall be implemented for the duration of the construction works on site.

7. Construction work on site shall not be carried out except within the following times:-

- Mon - Fri working only between 08.00 hours and 18.00 hours.
- Saturday working only between 08.00 hours and 13.00 hours.
- No work to take place on Sundays or Bank Holidays

8. The development hereby approved shall not be occupied unless and until each proposed dwelling is provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority and thereafter the fast charge sockets shall be retained and maintained for the fast electric vehicle charging.

9. No development shall take place until arrangements have been made for an archaeological watching brief to monitor development groundworks and to record any archaeological evidence revealed. These arrangements shall be submitted to, and approved in writing by the Local Planning Authority before the groundworks commence. The development shall only take place in accordance with the watching brief proposals agreed pursuant to this condition and shall be carried out by a suitably qualified investigating body approved in writing by the Local Planning Authority.

10. The dwellings hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plan Ref 18260-P101J for vehicles to be parked and for vehicles to turn so that

they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and kept available for use for their designated purposes.

11. No part of the development shall be first occupied unless and until the proposed visibility zones of 2.4m by 43m in both directions along Send Hill have been provided in accordance with the approved plans, Plan Ref 18260 P101 J, and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1m high.
12. The development shall accord with the Tree Report (including Arboricultural Impact Assessment and Method Statement) prepared by ACD Environmental, dated 4th December 2018 as revised 4 December 2019. No development shall start on site until the protective fencing and any other protection measures shown on the Tree Protection Plan in the Tree Report have been installed. At all times, until the completion of the development, such fencing and protection measures shall be retained as approved. Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials, and debris. No development shall commence until a site meeting has taken place with the sitemanager, the retained consulting arboriculturalist and the LPA Tree Officer.
13. The development shall be carried out in accordance with the recommendations set out in section 6 of the submitted Preliminary Ecological Appraisal Report by ACD Environmental dated 25 September 2018.
14. Prior to the commencement of development, an Energy Statement shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of:
  - i) how energy efficiency is being addressed, including benchmark data, and identifying the Target carbon Emissions Rate TER for the site or the development as per Building Regulation requirements; and,
  - ii) how a minimum of 20 per cent reduction in carbon emissions against the TER or predicted energy usage through the use of on-site low and zero carbon technology and fabric improvements shall be achieved.The approved details shall be implemented prior to the first occupation of the development and retained as operational thereafter.
15. No development shall take place until full details, of both hard and soft landscape proposals to include details of all hard surfaces, means of enclosure, and soft planting areas have been submitted to and approved in writing by the Local Planning Authority. The soft landscaping details shall also include details of ground preparation and planting method, and a schedule of landscape maintenance for a minimum period of 10 years, to include dealing with any planting failure. All the approved hard landscaping shall be completed prior to the first occupation of the 8th dwelling. All the approved soft landscaping shall be completed within the first planting season following the occupation of the 8th dwelling.
16. The development hereby permitted must comply with regulation 36 paragraph 2(b) of the Building Regulations 2010 (as amended) to achieve a water efficiency of 110 litres per occupant per day (described in part G2 of the Approved Documents 2015). Before occupation of any dwelling, a copy

of the wholesome water consumption calculation notice relating to that dwelling (described at regulation 37 (1) of the Building Regulations 2010 (as amended)) shall be provided to the Local Planning Authority to demonstrate that this condition has been met.

17. Before the commencement of the development hereby approved, a Drainage Strategy for the site, which is broadly in line with the submitted Flood Risk Assessment (prepared by EWE Associates Ltd Final Rev A March 2019) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed and made available for use before the first occupation of the development and shall be retained thereafter.

End of Schedule

## **APPEARANCES**

### **FOR THE APPELLANT:**

David Neame Director Neame Sutton Limited

Colin Pullan Head of Masterplanning and Urban Design Lambert Smith Hampton

Eleanor Trenfield Director Eleanor Trenfield Landscape Architects Limited

Graeme Keen QC Landmark Chambers

### **FOR THE LOCAL PLANNING AUTHORITY:**

Chris Ward Planning Consultant BJC Planning

Laura Howard Principal Policy Planner

Charles Streeten Counsel FTB Chambers