
Appeal Decision

Site Visit made on 29 June 2021

by David Cliff BA Hons MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2021

Appeal Ref: APP/Y3615/W/20/3264210

Land off Field Way, Send, Woking, GU23 6HJ

- 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 Damian Aziz (Concept Developments Ltd) against the decision of Guildford Borough Council.
 - The application Ref 20/P/01216, dated 17 July 2020, was refused by notice dated 7 October 2020.
 - The development proposed is 'Residential development comprising 9 new dwellings'.
-

Decision

1. The appeal is allowed and planning permission is granted for residential development comprising 9 new dwellings at Land off Field Way, Send, Woking, GU23 6HJ in accordance with the terms of the application, Ref 20/P/01216, dated 17 July 2020 and subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs has been made by the appellant against Guildford Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The Send Neighbourhood Development Plan ('SNDP') was formally adopted following a referendum on 6 May 2021 and the revised National Planning Policy Framework ('the Framework') was published in July 2021, both following the submission of the appeal. The main parties have been given the opportunity to comment on these documents and the representations received have been taken into account in this decision.
4. Further to the appellant's submission of an updated unilateral undertaking dated 9 April 2021, the Council has confirmed that this overcomes its fourth reason for refusal regarding the absence of a completed planning obligation with regard to the adjacent footpath and a cycle track and its fifth reason for refusal regarding the effect upon the Thames Basin Heaths Special Protection Area (TBHSPA). The latter remains a main issue due to the need for me to consider this matter in accordance with the Habitat Regulations. This leads into the main issues as set out below.

Main Issues

5. The main issues are:
 - i) Whether the proposal would provide for a satisfactory housing mix;

- ii) Whether the proposal would provide for satisfactory place making with particular regard to accessibility and connection to the existing street pattern;
- iii) The effect upon local ecology and biodiversity;
- iv) Whether there is sufficient local infrastructure to support the proposed development, with particular regard to General Practice (GP) surgery places, school places and broadband; and
- v) The effect of the proposal upon the integrity of the TBHSPA

Reasons

Housing mix

6. Policy H1(1) of the Guildford Borough Local Plan: Strategy and Sites 2015 - 2034 ('the Local Plan') states that new residential development should deliver a wide choice of homes to meet a range of accommodation needs as set out in the latest Strategic Housing Market Assessment (SHMA) and that it should provide a mix of housing tenures, types and sizes appropriate to the site size, characteristics and location. The proposal would provide for a mix between 2 bed (22%), 3 bed (22%) and 4 bed (55%) houses.
7. The Council accepts in its appeal statement that the lack of 1 bedroom units on the site is acceptable in this instance but maintains its objection on the basis that the proportion of larger units proposed does not comply with the SHMA or Policy H1. The SHMA makes clear that a prescriptive approach should not be applied and that specific policies relating to the proportion of homes of different sizes which are then applied to specific sites are unnecessary.
8. Guildford Borough contains a range of settlement types within which the proportions of dwelling sizes would reasonably be expected to vary depending on the characteristics of each place. This is reflected in Policy H1(1). The locality of the appeal site is generally characterised by two storey detached and semi-detached family sized dwellings. The proposed housing mix is weighted towards family sized dwellings in keeping with the locality, whilst also including two smaller two bedroom dwellings, providing some variation in the size of housing proposed. Whilst five of the nine proposed dwellings would have four bedrooms, there is still a need for such dwellings and the suburban characteristics of the area would be generally suitable for the provision of such dwellings.
9. Whilst weighted towards larger dwelling sizes, the proposed mix of housing would all contribute to the Borough's housing needs and would be appropriate to the characteristics and location of the site. The proposal would therefore be in accordance with Policy H1(1) of the Local Plan.

Place making

10. Policy D1(6) of the Local Plan seeks to ensure that development connects appropriately to existing street patterns and creates safe and accessible spaces. It states that particular regard shall be given to maximise opportunities for pedestrians and cycle movement and the creation of a high quality public realm.
11. The proposed access to the site would be taken from the end of Field Way. It is not unusual for new developments to be accessible from a private road and the

matter of access rights, as applicable, would need to be negotiated by the developer. There is no indication to suggest that the use of Field Way for access to and from the site would not be possible. In principle, Field Way would provide a satisfactory vehicular access for a development of nine dwellings. Pedestrian access would also be possible to the main site entrance via the public footpath that leads onto Clandon Road. The Council confirms that it has no objection to the creation of a cul-de-sac. Both access along Field Way and pedestrian access along the footpath would provide for appropriate connections to the existing street pattern.

12. The general design, scale and layout of the proposed dwellings is satisfactorily in keeping with the prevailing character and appearance of the surrounding area, comprising both detached and semi detached properties of a fairly varied range of designs. Residential development on cul-de-sacs is not untypical of other existing development in the vicinity of the site and from my observations at my site visit there is not a particularly strong linear pattern to existing housing. Although some unprotected trees have previously been removed, others are retained and a landscaping scheme, required through a condition, would ensure that new planting, including tree planting, could be secured which would enable the scheme to be provided with an appropriately landscaped setting, in keeping with the surroundings of the site.
13. In these and all other respects the proposal would amount to good place making and there would be no conflict with the design and place making requirements of Policy D1 of the Local Plan or Policies Send 1 – Design and Send 2 – Housing Development of the SNDP.

Site ecology

14. Some site clearance, including trees and vegetation, has occurred prior to the submission of the planning application. The existing trees on the site were not protected by any Tree Preservation Order. Any clearance works would have been subject to relevant wildlife legislation and the appellant states that the works were undertaken in accordance with the advice and recommendations set out in its Preliminary Ecological Appraisal and Bat Presence/Likely Absence Survey. Reference is made to the site historically comprising amenity lawns and a small parcel of broad-leaved woodland within the south east portion of the site. The site does not form part of a Local Wildlife Site or Site of Nature Conservation Importance. The Oldlands Copse Site of Nature Conservation Importance is located approximately 740m from the site.
15. Further survey work (PJC Consultancy) has been carried out by the appellant as part of the planning application. There is no clear indication that the proposed development would result in any significant impacts on existing biodiversity at the site, including for foraging or roosting bats. The 2019 bat emergence survey identified a number of bat species utilising the site for foraging and commuting although it notes that habitats present at the time of the further 2019 bat survey were not considered to function as an important commuting corridor or foraging habitat. The PJC report concludes that the proposed development and the recent habitat clearance works are unlikely to result in the loss or degradation of bat foraging and commuting habitat or to sever an important commuting route and obstruct access between potential bat roosts and important foraging habitats. Precautionary measures are

recommended which can be secured by a condition requiring implementation of the measures within the PJC report.

16. Planning Practice Guidance¹ states that the existing biodiversity value of the development site will need to be assessed at the point that planning permission is applied for. From the evidence before me, despite the removal of trees and other vegetation which might have potentially provided habitat for various species, it is not clear that any deliberate harm of significance to the biodiversity value of the site has taken place in the recent past and no indication has been provided that the clearance works undertaken were unauthorised in any way. In this respect there is no clear evidence to dispute the appellant's assertion that the clearance works were carried out in accordance with the previous ecological recommendations.
17. The appellant's ecological report includes other mitigation and enhancement measures for the development (including new suitable foraging and nesting habitat) and these along with a final Landscape and Ecological Management Plan ('LEMP') can also be secured by a planning condition. These measures appear to be capable of ensuring that a net biodiversity gain could be achieved at the site of lasting value, recognising that relatively small features can often achieve important benefits for wildlife. The appellant's proposals in this respect include new planting, bee bricks, log-piles, bird boxes and bat boxes. In its final response, the Surrey Wildlife Trust states that it is likely that significant biodiversity value will be added to the site post development if the applicant undertakes the suggested LEMP.
18. The proposed development would satisfactorily accord with the biodiversity aims of Policy ID4 of the Local Plan and Policy Send 4 – Green and Blue Infrastructure of the SNDP.

Local infrastructure

19. The evidence provided on the existing capacity of local infrastructure is very limited. Whilst the Council states that schooling and medical facilities in Send are at capacity there is no specific and detailed evidence to back up this assertion. For example, there are no details from the Local Education Authority that further capacity is needed in order to absorb new development in the area.
20. The Council's Planning Contributions Supplementary Planning Document (2017) (SPD) sets a threshold for housing developments over 10 homes for contributions towards early years, primary and secondary school capacity. The Council goes on to say that for secondary school education, where areas are close to capacity the Council may seek a contribution from small to medium housing development to a specific school expansion project. Whilst, cumulatively, several smaller developments could lead to a need for increased capacity in addition to natural population growth, there are no specific details or evidence provided to support any need for a contribution, or any specific school expansion project, in respect of this proposal. Indeed the Council goes on to acknowledge that the proposed development of nine units falls below the SPD threshold.
21. The Planning Practice Guidance is clear that policies for planning obligations should be set out in plans and examined in public and that policy requirements

¹ Paragraph: 026 Reference ID: 8-026-20190721

should be clear so that they can be accurately accounted for in the price paid for land. Such policies should be informed by evidence of infrastructure and a proportionate assessment of viability.

22. Similarly, no detailed evidence or justification has been provided to demonstrate that the local medical centre or existing GP surgery places are close to capacity or that proposed development would lead to the need for greater capacity.
23. With regard to broadband provision, the main parties have agreed that a condition could be imposed to secure the relevant infrastructure. I am satisfied that this would enable the most appropriate infrastructure to be provided in this respect for broadband.
24. Although the cumulative impact of smaller developments such as this could put additional pressure on local infrastructure and services, there is no detailed evidence and relevant policy basis for requiring contributions in this instance over than those already proposed in the applicant's S106 undertaking.
25. There is no conflict with Policy ID1 of the Local Plan regarding the availability and provision of infrastructure to support the proposed development.

Thames Basin Heaths Special Protection Area

26. The TBHSPA comprises a network of heathland sites providing a habitat for three internationally important bird species, the woodlark, nightjar and Dartford warbler. These birds nest on or near the ground and are therefore very susceptible to disturbance from informal recreational use, especially walking and dog walking.
27. The proposals, introducing new residential units onto the site, would be located within the 400m to 5km TBHSPA zone of influence. It is therefore likely to result in significant adverse effects upon the integrity of the TBHSPA including from the increased potential for disturbance of the protected habitat from the activity of residents. An appropriate assessment is therefore required under the Habitat Regulations 2017 (as amended).
28. The Council has an adopted TBHSPA Avoidance Strategy (2017) that sets out the mitigation requirements for development proposals. An updated unilateral undertaking (UU) has been provided by the appellant, dated 9 April 2021. This provides for a contribution of £6,987.08 to be paid to the Council towards access management of the SPA along with a 'SANGS' (Suitable Accessible Natural Green Space) contribution of £65,452.13 to be paid to the Council towards the cost of upgrading SANGS.
29. The Council has confirmed that it is satisfied with the content of the revised UU. I am satisfied that the UU would provide for appropriate mitigation in accordance with the Council's Avoidance Strategy and also that satisfactory measures are in place to ensure that the mitigation would be provided in a timely manner.
30. Consequently, I am satisfied that the proposed development, in combination with other projects and plans, would not result in the likelihood of any adverse effects upon the integrity of the TBHSPA. The proposal would therefore satisfactorily accord with the habitats and species protection criteria set out in

saved Policies NRM6 of the South East Plan 2009, NE4 of the Guildford Borough Local Plan 2003 and the Habitats Regulations 2017.

Other Matters

31. The appellants UU referred to above, would also secure payments of £10,000 towards the footpath (603) from Field Way and £3,000 towards a cycleway. The footpath has the potential to provide a key pedestrian and cycle connection to the site and its enhancement would serve to promote further its use by residents of the development. The contribution towards a cycle way would also promote sustainable travel. I am satisfied that the contributions, in addition to those referred to above regarding the TBHSPA are necessary and meet the relevant tests in paragraph 57 of the Framework.
32. Satisfactory on-site parking provision is proposed for each dwelling. Although Field Way comprises a single carriageway road with only limited passing space, the likely low speed of vehicles using the road, the limited expected number of overall vehicle movements arising and the good visibility along the road means that there would be unlikely to be any significant conflict between vehicles and/or pedestrians. The proposed layout would provide the opportunity for vehicles, including service vehicles to turn within the site. The visibility at the end of Field Way onto Burnt Common Road would also be adequate to accommodate the additional traffic from the development. There is also no evidence to suggest that vehicular movements from the development would result in any highway safety or capacity issues on the surrounding road network. Also taking account of my conclusions above regarding local infrastructure, I am satisfied that the proposal would not result in any significant conflict with the local infrastructure requirements of Policy Send 2 – Housing Development of the SNDP.
33. Sufficient separation distance would be provided from the proposed dwellings to existing neighbouring dwellings to prevent any unacceptable impacts upon living conditions with regard to privacy, day/sun light and outlook.
34. Whilst there will inevitably be a degree of disturbance during construction works, the magnitude of the scheme is not so significant for this to be a major problem. In this respect, I have imposed a condition requiring a Construction Transport Management Plan in order to seek to minimise impacts on the local highway network, including Field Way.
35. A condition requiring the approval of site drainage details would ensure that there are no adverse surface water drainage issues for the site and its surroundings.
36. Given my overall conclusions below there is no need for me to consider in detail the current position regarding the Council's five year supply of housing land. Whilst the Parish Council draws attention to other permitted developments, the Framework makes clear the Government's objective of significantly boosting the supply of homes.

Conditions

37. I have considered the Council's list of suggested conditions. I have made minor alterations to some conditions for precision, but such changes do not alter the substance of the particular requirements in each case.

38. Condition 2 (plans) is necessary for certainty on what has been approved. Condition 3 (materials) is required to provide a good standard of design and appearance. Conditions 4 (landscaping) and 5 (arboriculture) are necessary to safeguard and enhance the visual amenity of the scheme and its surroundings. I have re-worded this condition for clarity and to ensure the landscaping is provided in a timely manner. Condition 6 (energy) is necessary in order to reduce carbon emissions and promote sustainability. Condition 7 (water use) is required to promote the efficient use of water.
39. Conditions 8 (parking/turning), 10 (access) and 12 (Construction Transport Management Plan) are necessary for highway safety and the free flow of traffic. Conditions 9 (cycle parking) and 11 (vehicle charging) are required in order to promote sustainable travel and reduce carbon emissions. Conditions 13 (Landscape and Ecological Management Plan) and 14 (ecology) are necessary to safeguard and promote biodiversity. I have made condition 13 more precise than the Council's suggested wording, the matters for inclusion being able to be discussed between the developer and the Council prior to submission.
40. Condition 15 (broadband) is necessary in order to provide and promote digital connectivity. Condition 16 (drainage) is required to ensure that appropriate surface water drainage is provided and to prevent flooding and run-off issues. Although this was not one of the Council's suggested conditions it is suggested in the appellant's Design and Access Statement.
41. The Council's suggested condition regarding lighting is not required as relevant measures are already included in the details secured by condition 14. I have not imposed the Council's suggested condition regarding noise from ground source heat pumps as these are only one of several energy options put forward in respect of condition 6 and there is no evidence before me on the likelihood that noise nuisance is likely to result. I have also not imposed the Council's suggested condition seeking access details as this is already covered by condition 10.
42. Conditions 4, 5, 12, 13 and 14 are pre-commencement conditions as they relate to the mitigation of effects that might arise from the onset of the development works. Conditions 6 and 15 are pre-commencement as they relate to works, the design of which, might be affected by early ground works.

Conclusion

43. The proposed development would accord with the development plan when considered as a whole and there are no material considerations, either individually or cumulatively, that outweigh this finding. I conclude, therefore, that the appeal should be allowed.

David Cliff

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: LP01, P01, P02, P03, P04, P05, P06, P07, P08, P09, P10, P11, P12 and P13.
3. No development above ground level shall take place until details and samples of the proposed external facing and roofing materials, including colour and finish, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and samples.
4.
 - i) No development shall commence until a scheme for the hard and soft landscaping of the site, including the retention of existing landscape features, has been submitted to and approved in writing by the local planning authority. The scheme shall include details of any tree removal/retention, planting plans, written specifications, schedules of plants, noting species, plant sizes and proposed numbers/densities along with an implementation and management programme.
 - ii) All hard and soft landscaping work shall be completed in accordance with the approved scheme, prior to occupation or within the first planting season following completion of the development or in accordance with a programme which shall have previously been submitted to and approved in writing by the local planning authority. Maintenance shall be subsequently carried out in accordance with the approved management programme.
 - iii) Any trees, shrubs or plants which are removed, die or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species.
5.
 - (i) The development shall be constructed and carried out in accordance with the measures and procedures contained within the Arboricultural Planning Integration Report and Tree Protection Plan prepared by Quaife Woodlands dated 16th July 2020.
 - (ii) No development shall commence until a site meeting has taken place with the site manager, the retained arboricultural consultant and the Local Planning Authority Tree Officer.
6. Prior to the commencement of the development hereby permitted, an energy statement shall be submitted to and be approved in writing by the Local Planning Authority. This shall include details of 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 Regulations requirements and how a minimum of 20% 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.

7. No dwelling shall be occupied until the Building Regulations optional requirement (paragraph 2(b) of regulation 36) to limit water usage to 110 litres per person per day has been complied with.
8. The development hereby permitted shall not be first occupied until space has been laid out within the site in accordance with Drawing No. P02 for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. The parking and turning areas shall thereafter be retained for their designated purposes.
9. The development hereby permitted shall not be first occupied until cycle parking facilities have been provided in accordance with Drawing Nos. PO2 and P13. The cycle parking facilities shall therefore be retained for their designated purpose.
10. The development hereby permitted shall not be first occupied until the proposed vehicular access to Field Way has been constructed and provided with visibility splays in accordance with the Transport Statement Drawing No. 099.0012.001 Rev C. The visibility splays shall thereafter be kept permanently clear of any obstruction over 1.05m high.
11. The development hereby approved shall not be first occupied until the proposed dwellings are provided with fast charge sockets in accordance with a scheme to be submitted to and approved in writing by the Local Authority. The fast charge sockets shall thereafter be retained for their intended use.
12. No development shall commence until a Construction Transport Management Plan ('CTMP') has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include details of:
 - (a) Parking for vehicles of site personal, operatives and visitors;
 - (b) Loading and unloading of plant and materials;
 - (c) Storage of plant and materials;
 - (d) Measures to prevent the deposit of materials on the highway;
 - (e) On-site turning for construction vehicles;
 - (f) Before and after condition surveys of the highway (including Field Way) and a commitment to fund the repair of any damage caused.The development shall be carried out in accordance with the approved CTMP.
13. Prior to the commencement of the development hereby permitted a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include details of relevant landscape/ecological management and monitoring measures and how the long term implementation of the plan will be secured. The development shall be carried out in accordance with the approved LEMP and the measures within it shall be implemented thereafter.
14. The development hereby approved shall be carried out in accordance with the mitigation measures detailed in the Ecological Scoping Study and desk Study by PJC dated 17th April 2020.

15. No development shall commence until a scheme for the installation of high speed fibre broadband has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be provided in accordance with the approved details and be available for use on the first occupation of each dwelling where practicable or supported by evidence detailing reasonable endeavours to secure its provision and the alternative provisions that have been made.
16. No dwelling hereby permitted shall be occupied until surface water drainage works for the site have been implemented in accordance with details that shall have been submitted to and approved in writing by the local planning authority.