



Appeal Decision

Site visit made on 17 August 2021

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Appeal Ref: APP/N1730/W/21/3273529

Land South of Eversley Road and East of Marsh Lane, Eversley Cross, Hook, RG27 0NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Philip Scott on behalf of Obsidian Strategic Asset Management Limited against the decision of Hart District Council.
 - The application Ref 20/02308/FUL, dated 5 October 2020, was refused by notice dated 31 March 2021.
 - The development proposed is the change of use from agricultural land to deliver 16.0 hectares of public open space and habitat land with associated landscaping including a circular walkway, hedge planting and boundary works, new access works, cycle and car parking, height restrictor barrier, interpretation point, benches and bins to facilitate a Suitable Alternative Natural Greenspace (SANG).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural land to 16.0 hectares of public open space and habitat land with associated landscaping including a circular walkway, hedge planting and boundary works, new access works, cycle and car parking, height restrictor barrier, interpretation point, benches and bins to facilitate a Suitable Alternative Natural Greenspace (SANG) subject to the conditions in the annexe at the end of this decision.

Application for costs

2. An application for costs was made by Mr Philip Scott on behalf of Obsidian Strategic Asset Management Limited against Hart District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - The desirability of providing the proposed SANG and the implications for the SANG provision within Hart District;
 - the accessibility of the proposed SANG;
 - the effects of the proposal in terms of landscape and biodiversity and;
 - the significance of the loss of agricultural land

Reasons

The desirability of providing the proposed SANG: Background

4. The Thames Basin Heaths Special Protection Area (SPA) is an area of lowland heath covering 8,000 hectares across Surrey, Berkshire and Hampshire. It was designated under the European Birds Directive in March 2005 because the mix of heathland, scrub and woodland habitat supports breeding populations of Dartford warbler, woodlark and nightjar. These ground nesting birds are particularly vulnerable to predation and disturbance. The SPA is legally protected by the Conservation of Habitats and Species regulations 2017.
5. The provision of suitable alternative natural green space (SANG) is a strategy for encouraging recreation, particularly dog walking away from these sensitive ecological sites. The strategy is well established in the Thames Basin Heaths Special Protection Area Delivery Framework (the SPA Delivery Framework) agreed by the affected local authorities and Natural England and is kept under review for its effectiveness. Management by rangers and education of visitors is also another element of the strategy.
6. The South East Plan was published in May 2009. It has been largely revoked although policy NRM6 remains in force. This policy requires new residential development which is likely to have a significant effect on the integrity of the SPA to put in place measures to avoid or mitigate any potential effects. This requires a minimum of 8ha of SANG for 1,000 population.
7. Policies NBE3 and NBE4 of the Hart Local Plan (LP) cover the SPA with similar intent to require SANG. The National Planning Policy Framework (the Framework) paragraphs 179-182 also highlight the importance of SPAs.

The desirability of providing the proposed SANG: Findings

8. The SPA in this area includes a broad circular swath of land west, south and east close to the appeal site, as depicted on page 101 of the above Local Plan. The appellant's statement indicates the nearest part of the SPA is 1km away in direct distance at Castle Bottom to Yateley and Hawley Commons SSSI, whilst the Bramshill SSSI is 1.3km linear distance away.
9. The Council's statement confirms that there is no SANG or potential SANG in the north/north west area of the District. The appellant's appendix 36 suggests the existing capacity in this area is limited to Moulsham Lane SANG, which could only provide additional offsetting for 100 dwellings. The table in the appellant's appendix 36 shows the other SANGs, which are distant from the population in this area.
10. I find that this SANG would be close to the SPA and could offer a recreational alternative where SANG capacity is limited. Indeed, Natural England in their response confirmed that the site would be appropriate as SANG.
11. The Council argue that SANG provision is not necessary as the spatial strategy does not envisage any major development in the area. However, Yateley, Finchampstead and Eversley are all settlements close to the appeal site. The LP describes Yateley as the second largest settlement in Hart with a population of 20,471 at 2011. These settlements have a range of facilities and are therefore likely to be the subject of development pressures. The appellant's appendix 11 shows significant SLAA/promoted sites around these settlements.

12. Whilst the Council's strategy may not envisage development now, paragraph 74 of the Framework states that housing land supply is a minimum and case law has confirmed it is not a ceiling. Furthermore, there is no certainty that further development sites would not be required if sites within the Council's housing trajectory fail to come forward as expected and it is possible that they would come forward in this part of the District where SANG provision is limited. The SANG provision could also support additional development should this be necessary as part of an early review. Indeed paragraph 92 of the LP foresees its review to meet housing land supply. Also, additional development could be supported because of its particular merits irrespective of the housing land supply.
13. Although the Council suggests that on site provision of SANG is preferred, as has happened in the past, that may not necessarily be possible as much would depend on the characteristics of the proposal and the site: whether it would be appropriate for SANG and would it meet the established requirements. In particular it would need to be well located. Furthermore, the minimum size of a SANG is 2ha, and therefore to achieve this and any significant residential development, would require a large piece of land. Indeed paragraph 246 of the Local Plan notes that small sites often cannot provide SANG.
14. The Council expects that 5 more SANGs will be delivered in the next couple of years. However, no evidence has been submitted to show this view or that implementation of these SANGs can be guaranteed.
15. The Council's concern is that the proposal would grossly increase the amount of existing and planned SANG in Hart over the LP period which could lead to inadequate funding to maintain the permitted SANGs. However, that plan period is up to 2032 and bearing in mind the time taken to establish the SANG, including planting, creation of paths, and car parking, that would not be overly far in the future.
16. A surplus of SANG would result in more recreation land, a greater choice and less far to travel, which would lead to less recreational pressure on the SPA. Thus, there would be less disturbance to the protected species and their habitat.

Implications for other SANGs

17. The Council is concerned that the proposal could lead to other SANGs not being properly funded and therefore their upkeep or establishment could be harmed. However not all SANG is in Council control and there are two major privately operated ones in Hart at Crookham Park and Riseley. In any event all SANGs have to be managed in accordance with Natural England's requirements so there is no necessity for Council control.
18. Moreover, the table produced by the Council, replicated in the appellant's appendix 36, shows that the existing SANG provision would offset 3,156 dwellings. The Council controls SANG to offset 976 dwellings, which is only a small proportion of the overall SANG. The above table is also dated as of August 2020 and the number of dwellings permitted may well have increased, and available SANG may well have decreased. This situation would also be accentuated even more by the time this proposed SANG was established if the appeal is allowed.

19. Additionally, the catchment limit for this SANG will be 4km as recommended in the SPA Delivery Framework. Consequently, any large development more than 4km of the appeal site would not be expected to contribute to its upkeep. The table shows that 3,056 dwellings would be more than 4km away from the appeal site and so would contribute to other SANGs. Therefore, this proposal would not divert and jeopardise funds from existing provision. The Council does state that funding for sites of 9 or less dwellings can go anywhere, but no evidence has been provided to show that this level of development would be significant.
20. Natural England did not object to this proposal. They are a key participant in the strategy and the SPA. It is reasonable therefore to deduce that if they had considered the proposal would undermine the SPA strategy, they would have made such a response.

The desirability of providing the proposed SANG and the implications for the strategy: Conclusion

21. I find that there is no clear evidence that the proposal would jeopardise the funding for other SANGs. The proposal would provide additional capacity for housing growth, extending into the next plan period and resolves a gap in this location. The impetus of the revised Framework is to consider housing in the longer term and the SPA constraint will remain. Accordingly, I therefore conclude that provision of this proposed SANG is desirable and would not harm the SPA mitigation strategy.
22. Policies NBE3 and NBE4 of the Hart LP, and saved policy NRM6 of the South East Plan, promote SANG as a part of the means of mitigating the effects of recreation on the SPA. Additionally paragraphs 179-182 of the Framework recognise the sensitivity of protected areas, require their protection and enhancement. The proposal would not be in conflict with these policies.

Accessibility of the SANG

23. The Council's decision notice suggests that the users of the SANG would be largely reliant upon the use of private cars. However, the car park would be limited to 17 spaces which would not be particularly numerous for the size of the SANG. The other users would be walking, cycling or jogging.
24. Additionally, the level of provision is set by guidelines agreed with Natural England, and the SANG will have to comply. Consequently, it would not therefore be appropriate to require a different amount of parking.
25. Indeed, the nature and purpose of SANG necessitates that it is close to populations, so that it can divert users away from the SPA. The appellant's appendix 11 has a map which shows the site is close to Yateley and Eversley. Paragraph 248 of the Local Plan describes SANG as publicly accessible greenspace and Natural England would not have accepted this site as potential SANG if it was not accessible. Furthermore, as stated earlier there is a gap in SANG provision in this part of Hart and the appeal site would be close to the SPA, so there is a locational need for it here.
26. The Council accept that the facility would have to be located in the countryside. However, one cannot reasonably expect the countryside to have the same accessibility in terms of bus services as an urban area.

27. In any event, on my site visit I walked to the appeal site from both Eversley and Yateley, noting that they are both close at the respective sides. Both have flat roadside pedestrian connections up to the appeal site except for the crossing of the adjacent Marsh Road and Eversley Road.
28. I also noted on my site visit that the public rights of way at Love Lane, along the eastern edge of the appeal site and the footpath across the centre of the site were well used judging from the worn surface and the clearance of the surrounding vegetation. This indicates a need for the SANG as well as its accessibility for walkers.
29. I therefore conclude that the proposal would be appropriately located for its role as SANG and sufficiently accessible to Eversley and Yateley to not be overly reliant upon private car use.
30. Policy INF3 of the LP requires the promotion of walking and cycling to services and the support for a low carbon future as well as appropriate parking provision. Saved policy GEN1 of Hart District Local Plan (Replacement) and First Alterations to the Hart District Local Plan (Replacement) requires adequate arrangements for parking and avoidance of harmful traffic flows. Paragraph 104 of the Framework also promotes cycling and walking, whilst paragraph 105 requires significant development to be focused on locations which are sustainable. Similarly, paragraph 110 requires development to be accessed by sustainable means. The proposal would not be in conflict with these policies.

The effect of the proposal: Landscape

31. The site is not within or adjacent to an Area of Outstanding Natural Beauty or locally protected landscape. It is visible from Eversley Road as well as Love Lane bridleway as well as the central footpath across the site.
32. The appeal site is characterised by rough grass fields, which provide a sense of openness as there is no vegetation or features except on the boundaries. All sides have varying extents and mix of indigenous trees and shrubs although these are sparser on the Eversley Road frontage. Given the openness and visibility from the adjacent Eversley Road the site has a high sensitivity to change.
33. The proposal includes groups of woodland planting. As shown in the submitted plans these would be arranged informally in terms of their curving boundaries, varied distribution and species. Therefore, the planting would appear natural.
34. Additionally, the planting would create areas of interest and focal points enhancing the current featureless fields. Importantly, the sense of openness of the site would still prevail due to the distribution of the planting. The proposal would reinforce the site's importance as countryside.
35. The proposal involves the creation of a circular path. Its curving form and muted surface would minimise any impact. Benches and compost area are also proposed which could also use rustic materials to aid their appearance.
36. The car park would be detracting, largely from the presence of cars. However, this would be a small size and boundary landscaping would contain views. Consequently, it would have only limited impact and is an inevitable consequence of the use.

37. The use would lead to pedestrian movements, but spread over a large site, these would not significantly impair the tranquillity of the site.
38. Taken as a whole, I find that the proposal would enhance the character and appearance of the site. Indeed, it is fundamental that a SANG is pleasant countryside to attract visitors.
39. The Council's Policy Section (as recorded in the Case Officer's delegated report), felt that the proposal would ensure a permanent open space buffer against coalescence between Yateley and Eversley: I concur that the proposal would provide a wedge and help retain the perception of the countryside setting to these settlements.
40. The proposal would create a 2.3km circular walk, which would be open to everybody, all year round and free of charge. This would have physical and mental health benefits being an accessible and safe environment within which to appreciate the countryside.
41. Natural England has specific guidance on the requirements of SANG which is acknowledged in the submitted details. A Management Plan has been submitted although this would need to be reviewed and approved by the local planning authority. This could be secured by an appropriate condition.
42. Policy NBE1 of the LP deals with Development in the Countryside. The policy wording does not foresee the provision of SANG and only allows for small scale recreation facilities such as interpretation centres and car parks which enable people to enjoy the countryside. The 16 hectares of land would be more than small scale recreation and thus the proposal would conflict with policy NBE1. However, paragraph 219 of the pre-amble text notes the intrinsic character and beauty of the countryside, implying that is the purpose of the policy. Paragraph 230 also caveats that this provision is subject to no significant adverse impacts for example on landscape, ecology, designated sites and traffic. As I have found above the proposal would improve the character and appearance of the landscape. Moreover paragraph 221 states that development in the countryside will be permitted where it is both necessary and justified. The provision of this SANG would help safeguard the SPA and would provide a permanent open space buffer between Yateley and Eversley thereby helping to retain the perception of the countryside setting to these settlements.
43. Policy NBE2 requires development proposals to respect and wherever possible enhance the special characteristics, value or visual amenity of the District's landscapes. The proposal would not be in conflict with this policy, and this is accepted by the Council.

The effect of the proposal: Biodiversity

44. The site largely consists of open fields which are grazed, which offer poor diversity of vegetation and therefore limited ecological value. The boundaries however have indigenous trees and shrubs, which are substantial on three sides, providing potential foraging, habitat and shelter, whilst allowing movement to the wider countryside. One of the sides borders a stream which would offer potential for amphibians.
45. The proposed new tree and shrub planting offers more potential shelter and habitat. The grassland too could be planted and managed to promote flora. Bat and bird boxes as well as insect habitat could be purposefully created.

46. Although there would be some disturbance from dog walking, areas of vegetation cover are indicated on the submitted plan away from footpaths. This would offer some protection for some species.
47. The space could be managed to promote biodiversity and if the appeal was allowed ecological works and the long term management could be the subject of conditions.
48. The appellants submissions include a biodiversity assessment. Whilst this is theoretical at this stage and the resulting figure could change, it nonetheless shows a substantial gain.
49. I therefore conclude that the proposal would significantly improve the biodiversity of the site in accordance with NBE4 of the LP which seeks to conserve and enhance biodiversity.

Loss of agricultural land

50. The decision notice refers to the loss of the best and most versatile land. The appellant's agricultural land classification report identifies the site as good to moderate agricultural land (a mixture of Grade 3a and 3b soil) but of low fertility. Thus, the site does not have the top two grades of agricultural land. The Council does not provide any contrary evidence.
51. The site is currently used for the grazing of livestock, which could be undertaken elsewhere in the area. It has not been brought to my attention that the site has any particular agricultural attribute that would give an overriding and unusual value.
52. The amount of loss of agricultural land would not be significant in terms of the national quantum. In terms of current agricultural activity its contribution to food supply and resilience is negligible.
53. I therefore conclude that the loss of agricultural land would lead to very limited harm. The decision notice does not refer to a Local Plan policy in this regard. Paragraph 174 (b) of the Framework recognises the economic and other benefits of the best and most versatile agricultural land, of which some would be lost in the proposal as well as the recognition of the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services. The clause also ends with reference to trees and woodland. The new planting would enhance the landscape and biodiversity and the proposal provides SANG. Therefore, I find that there is some tension here but overall, the proposal would not be in conflict with the Framework.

Other matters

54. Eversley Parish Council has commented that the proposal could undermine the viability of Parfitts Farm. However, I have not been provided with details of the extent of the holding or the nature of their operation to consider such an impact. In any event the appellant states that they do not have use of the appeal site, and I therefore find that they would not be disadvantaged by the proposal.
55. Some of the local residents were concerned that the proposal would lead to residential development nearby. However, residential development is not part

of this proposal and any such development on another site, outside the red line of this appeal site, can only be judged on its particular impacts and merits.

56. Some of the local residents were concerned about highway safety. However, the car park access would have good visibility and adequate turning on site and walkers would have access via footpaths.

Planning Balance

57. Policy NBE1 of the LP allows only for small recreation facilities but at 16ha the proposal would not be small. Accordingly, the proposal is contrary to policy NBE1. However, this conflict is tempered by the provision of SANG both as a desirable recreational facility and to alleviate pressure on the SPA, which has statutory protection. Additionally, the purpose of the policy is to protect the countryside and the proposal would not only do that but would be an enhancement, which would accord with paragraph 174 of the Framework. Similarly, biodiversity would be improved in accordance with paragraph 179 of the Framework. The proposal promotes informal, low key recreation which would support health and wellbeing as promoted by paragraph 98 of the Framework. Therefore, the weight to be afforded to the conflict with Policy NBE1 is limited.
58. I have found above that the proposal would be consistent with other Development Plan policies. Importantly there are recreational pressures for a SANG in this general area and increasing the quantum of SANG helps assure provision in the future, without prejudicing their funding or upkeep. The proposal would help maintain the mitigation strategy.
59. The proposal would help remove a potential constraint to housing growth in the area. This would help the future strategic planning for development and eliminate uncertainty.
60. Paragraph 8 of the Framework describes the three overarching objectives of the planning system, which are interdependent and need to be pursued in mutually supportive ways. The economic objective would be met by reducing the potential constraint on future housing in the area and helping to ensure that growth can happen in the best location. The social objective would be met by the recreational and health benefits of more public open space. The environmental objective would be met by the new landscaping and biodiversity improvements as well as the wider protection for the SPA.
61. The proposal fails to comply with Policy NBE1 due to its size. However, the purpose of the policy is to protect the countryside, which would be more than achieved by the proposal, leading to an enhancement. The proposal complies with other policies and indeed offers significant benefits. Therefore, when taken as whole the proposal would not conflict with the Development Plan.

Conditions

62. Paragraph 56 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions. The appellant and the Council have suggested conditions which broadly overlap.
63. Timing and approved plans would help certainty. The use of the site should be restricted to public use in accordance with the terms of the application. It is necessary since that was particularly significant in weighing up the benefits of

the proposal and the conflict with Policy NBE1 and the reason for the permission. The Council's wording is favoured as it is precise, however the wording uses 'thereafter' which is more appropriate in a condition than 'in perpetuity'. The finalised Management Plan needs to be submitted and approved including precise details of the landscaping in the interests of appearance. The tree protection condition is necessary to safeguard their vitality but is re-worded in the interests of clarity. The cycling condition is necessary to promote non car use. The access, parking and off site highway works conditions are necessary to provide safe and secure accessing, but as compliance with the approved plans rather than highway authority approval. The removal of permitted development rights is only justifiable in exceptional circumstances. However, such developments could restrict the recreational opportunity and undermine the SANG management and its role in the mitigation strategy. The condition is therefore necessary. The preclusion of lighting is necessary to promote the biodiversity of the site and maintain a dark sky rural landscape.

Conclusion

64. I therefore conclude that the appeal should be allowed subject to the conditions annexe below.

John Longmuir

INSPECTOR

CONDITONS ANNEXE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 6731_008 Rev J (General Arrangement Plan)
 - 6731_200 Rev. B (Landscape Technical specification Details)
 - 1133/AIA/200 (Arboricultural Impact Assessment & Preliminary Tree Protection Plan)
 - 819087/6103 Rev. B (Site Access Visibility Splays)
 - 819087/6104 Rev. C (Proposed SANG Car Park Layout)
 - 6731_004_Rev 1.1 (SANG Catchment Area and Land Allocations)
- 3) The development hereby approved shall be made available for public use and maintained as such thereafter once the requirements of conditions no. 2, 3, 5 and 6 above have been implemented on the site and fully completed.
- 4) No development shall take place until a SANG Management Plan, including, but not limited to, a scheme of soft/hard landscape (including fence details) and habitat management and the details and responsibilities of a suitable management body, has been submitted to and approved in writing by the local

planning authority. The entire site shall be managed in accordance with the approved SANG Management Plan.

Soft landscape details shall include planting plans, written specifications require details of species, sizes, quantities of plants and implementation schedule of landscape proposals.

Any trees or plants which, within a period of five years after approved completion, are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of similar species, size and number as originally approved.

- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard 5837:2012 'Trees in relation to design, demolition and construction - Recommendations' (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 6) The development hereby approved shall not be brought into use until all the off- site highway works shown on plans below have been implemented. The surfacing details shall also be agreed in writing by the local planning authority beforehand. The parking and turning areas shall be retained and maintained for such purposes thereafter and in accordance with the approved plans.

8190871/6105 Rev. A (Proposed off-Site Highway Works sheet 1 of 3);
819087/6106 Rev. A (Proposed off-Site Highway Works Sheet 2 of 3); and
8190871/6107 Rev. A (Proposed off-Site Highway Works Sheet 3 of 3).
- 7) Prior to the first use of the development hereby permitted, details of cycle parking facilities shall be submitted to and approved in writing by the local planning authority. Cycle parking facilities shall be implemented in accordance with the approved details prior to the first use of the development hereby permitted and shall be retained and maintained for such purposes thereafter.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), no buildings, gates, fences, or any other form of enclosure other than shown on the approved plans or agreed as part of the SANG Management Plan, shall be constructed, or erected on the site.
- 9) No lighting shall be installed on the site.

END OF CONDTIONS