



Appeal Decision

Site visit made on 11 January 2023

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 FEBRUARY 2023

Appeal Ref: APP/Y3615/W/22/3298575

Buren, Surrey Gardens, Effingham Junction, Leatherhead, KT24 5HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr B Wales (Bryden Homes Limited) against Guildford Borough Council.
 - The application Ref 21/P/02158, is dated 7 October 2021.
 - The development proposed is demolition of existing garage to provide access and erection of 1 No 3 Bedroom House in rear garden.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. This appeal results from the failure by the Council to determine the planning application within the prescribed period. The Council have advised that, had they been able to determine the application, they would have refused permission based on the site's potential for accommodating bat roosts, its presence close to the Thames Basin Heaths Special Protection Area (the SPA) and the failure to demonstrate the development would meet required sustainability standards.

Main Issues

3. The main issues are:
 - The potential effect of the proposed development on bats; and,
 - Whether it would make sufficient provision for sustainable construction.

Reasons

Bats

4. The appeal site includes a number of trees of varying size, a pond on one boundary, and several outbuildings. The Preliminary Ecological Appraisal and Preliminary Roost Assessment Report (the Report) acknowledges that bats, all species of which are protected, are likely to be present in the area. Two of the outbuildings to be demolished are acknowledged as having some potential for use by roosting bats. The report recommends that an emergence and re-entry survey be carried out to determine whether either building is in use by roosting bats.
5. No such survey has been provided with the appeal, and at the time of this decision the Report is 3 years old and its findings regarding the site may no

longer be accurate. The appellant refers to a bat survey being organised in their design and access statement but have not provided this with the appeal.

6. I have considered whether this matter could be addressed by an appropriately worded condition. However Circular 06/2005 Biodiversity and geological conservation states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted. Accordingly, this matter cannot be addressed by condition.
7. In the absence of full, up to date information it is not possible to say that the development would not be harmful to bats. Accordingly, the appeal proposal conflicts with saved Policy NE4 of the Guildford Borough Local Plan 2003. This policy states that permission will not be granted for any development that would be liable to cause any demonstrable harm to a species of animal or plant or its habitat, protected under British law.

Sustainable Construction

8. Policy D2 of the Guildford Borough Local Plan: Strategy and Sites 2015-2034 requires, amongst other criteria, that new buildings must achieve a reasonable reduction in carbon emissions of at least 20 per cent measured against the relevant Target Emission Rate. The appellant has not submitted any information to show how this reduction could be achieved. I have considered whether this could be secured by an appropriately worded condition, if I were otherwise minded to allow the appeal. However, in the absence of any details it is not possible to say with certainty that such a condition would be enforceable and precise. Accordingly, the appeal proposal would conflict with the identified criterion of Policy D2.

Other Matters

9. The appeal site lies within the 5 kilometre buffer zone around the SPA. Had I otherwise been minded to allow this appeal, it would have been necessary as the competent authority to carry out an appropriate assessment to determine whether the appeal proposal would be likely to result in significant adverse impacts to the integrity of the SPA. However, as I am dismissing the appeal on other substantive grounds it is not necessary to consider this matter further.

Planning Balance

10. The appeal proposal would result in the creation of 1 new dwelling. This weighs in favour of the development, as it would support the Government's objective of significantly boosting the supply of homes. However, it is not possible to say there would be no harm to bats from the proposed development, or that it would achieve the required 20 per cent reduction in carbon emissions. These matters outweigh the benefit arising from the creation of 1 new dwelling. There are therefore no material considerations to indicate that this appeal should be determined other than in accordance with the development plan.

Conclusion

11. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR