



Appeal Decision

Site visit made on 15 February 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/Y3615/W/22/3302303

Kelima, Portsmouth Road, Ripley GU23 6EW

- 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 Mark Jennings of Homes by Warwick Ltd against the decision of Guildford Borough Council.
 - The application Ref 21/P/01387, dated 23 June 2021, was refused by notice dated 3 March 2022.
 - The development proposed is described as the erection of two dwellings, the formation of a new access, the erection of a double garage following the demolition of the existing garage and conservatory.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect it has upon the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area; the living conditions of the occupants of Hi-Ash¹ and The Retreat with specific regard to the privacy of their gardens; and the Thames Basin Heaths Special Protection Area (SPA); and
 - if the development is inappropriate whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstance necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

3. Paragraph 149 of the Framework states that the construction of a new building is inappropriate in the Green Belt but provides specific exceptions to this. Policy P2 of the Guildford Borough Local Plan: Strategy and Sites (LP) indicates that national Green Belt policy, in the form of the Framework, will be applied but also provides additional context for various elements of the exceptions.

¹ This property is also referred to as High Ash in some of the submitted evidence.

4. As the proposal would include the erection of 3 new buildings (2 dwellings and a double garage) which would not replace any existing building and would be for residential purposes, the exceptions set out in Paragraph 149 a) to d) and f) of the Framework would not apply.
5. Paragraph 149 e) allows limited infilling in villages and in this context LP Policy P2 sets out that limited infilling may also be appropriate outside the inset settlement boundaries of specific villages where it can be demonstrated that the site should be considered to be within that village.
6. Nevertheless, the Framework does not define what a village is, nor does it require villages to be defined by the development plan, and case law² recognises that settlement boundaries are not necessarily determinative. Equally, the inclusion of the appeal site within the administrative area of Ripley, for the purposes of the post office and various local authority departments, does not signify the appeal site is within that village when considering paragraph 149 e) of the Framework.
7. The appeal site is within a reasonably sized grouping of properties which generally face onto Portsmouth Road or Grove Heath North. They are positioned broadly midway between the villages of Ripley and Send Marsh / Burnt Common (SMBC), both nucleated settlements with defined inset settlement boundaries set out in the development plan. However, the villages and the grouping of properties are separated by a band of contiguous fields, trees, and hedges. Hence, the appeal site and surrounding properties are physically distinct and spatially detached from both villages.
8. Although there are examples of commercial premises, including a public house, within the immediate area of the appeal site. From my observations on site, as well as the evidence before me, there does not appear to be any of the services necessary for day to day living, such as education, health or community facilities or a shop. Unlike both Ripley and SMBC which both have a variety of services and facilities available to their residents.
9. Therefore, notwithstanding that the size of the grouping of properties around the appeal site, the extent of its physical and visual separation from Ripley and SMBC, and the absence of local services and community amenities, leads me to the conclusion that the location of the proposal would not be within a 'village' for the purposes of Paragraph 149 e) of the Framework.
10. The appellant considers the appeal site as previously developed land. As the proposal would require the redevelopment of a residential garden within an existing grouping of properties, a built up area, the proposal would not comply with the Framework definition of previously developed land. Therefore, Paragraph 149 g) of the Framework would also not apply, in this case.
11. I note the development plan allocates a number of sites around SMBC for housing, however these are not located within the gap between that village and the appeal site, so do not alter my findings in relation to the existing physical separation.
12. My attention has been drawn to appeal APP/Y3615/W/19/3228046, a new dwelling in West Clandon. The Inspector in that appeal noted that the location was within 130m of the defined boundary settlement and had a physical and

² Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

functional connectivity with the village. These circumstances are different to that which is before me and whilst consistency is important each case must be considered on its own merits.

13. Consequently, the proposal would not fall within any of the exceptions listed in the Framework and would constitute inappropriate development in the Green Belt. On these grounds it would also not comply with LP Policy P2.

Openness

14. The appeal site is surrounded by other residential uses and is positioned toward the centre of the group of properties it is part of. The surrounding properties are predominantly two-storey and largely screen the location of the proposed dwellings from Portsmouth Road and Grove Heath North. The proposal would not, therefore, be overly visible in views through and around the area, so is unlikely to visually intrude into the Green Belt.
15. However, the openness of the Green Belt has a spatial aspect as well as a visual aspect. The proposed dwellings would be positioned behind the appeal property within its garden. The garden abuts other residential gardens on 3 sides, some of equal or larger size. This collection of gardens creates a large, open, and verdant space within the centre of the grouping of properties, albeit it with occasional outbuildings and boundary fencing.
16. It is appreciated that the appeal site is at one end of this open space, with other houses to one side, but the placement of 2 two-storey dwellings would intensify development between Portsmouth Road and Grove Heath North and reduce the spaciousness of this area. This physical reduction in size of the open space would constitute encroachment into the Green Belt.
17. Accordingly, the proposal would fail to preserve the openness of the Green Belt, and due to the proximity of that proposed to the edge of the open space I attribute moderate weight to this harm.

Character and appearance

18. The residential properties surrounding the appeal site are mainly detached dwellings in large plots, all traditional in appearance. There are examples of more modest linked dwellings and tandem development, but these appear an exception to the overall character. In the main, the character is one of a collection of residential properties in a rural setting.
19. The proposal would create 2 traditionally styled detached dwellings commensurate in design and appearance to the surrounding properties. However, they would be allocated significantly smaller gardens than similar sized dwellings nearby. Thus, the layout of the proposal would create individually cramped plots which would be dominated by the new buildings and would not reflect the spaciousness of the residential plots around them.
20. There are properties with smaller gardens in the area, but they are in general linked to proportionally smaller dwellings. Therefore, although I find the design of the proposed dwellings acceptable, the site layout and proportions of each new plot would be incongruous to their setting.
21. In conclusion, the proposal would cause moderate harm to the character and appearance of the area. It would fail to comply with LP Policy D1, saved Policy

G5 of the Guildford Borough Local Plan 2003 (LP2003), Policy LNPH3 of the Lovelace Neighbourhood Plan (NP), and the Framework insofar as they require new development to be of high quality design which respects the distinct local character of its surroundings. It would also not accord with the guidance set out in the Residential Design Supplementary Planning Guidance in relation to scale, proportion, and form of new development within the context of its surroundings.

22. The Council has referenced LP2003 Policy H4 which relates to housing in Guildford, Ash and Tongham. As the appeal site is outside these areas, this is not determinative to this issue.

Living Conditions

23. Hi-Ash and The Retreat are adjacent to the donor property, and the appeal site extends behind their rear gardens. Currently the appeal site is separated from these 2 properties by a hedge, which on visiting the site, was not in leaf so views through to the gardens were available. However, the current use of this part of the appeal site is for the private use of a single family home. Therefore, although there is a level of intervisibility, the rear gardens of Hi-Ash and The Retreat have a sense of privacy.
24. The proposed dwellings would be located to the rear and in parallel to Hi-Ash and The Retreat, facing their rear gardens. Although intervisibility at ground floor level could be improved by altering the boundary treatment, it would not screen the proposed upper floor windows in both new dwellings. As such, 2 bedrooms in 1 proposed dwelling, and 1 bedroom in the other, would have unfettered views of both gardens. Due to the rectilinear form of these gardens this overlooking would be near complete which would cause a significant reduction in privacy for the occupants of both Hi-Ash and The Retreat, to the detriment of their living conditions.
25. It is appreciated the proposed dwellings would also be partially behind the donor property, and notwithstanding the screening provided by the proposed double garage, would potentially have a similar effect on the privacy of its occupants.
26. Although the consideration of living conditions is not explicitly set out in LP Policy D1 it does require, amongst other things, that new development in the pursuit of high quality design, should consider the interrelationship of land use to external space, and local design guidance contained in neighbourhood plans, as well as other supporting documents. Amongst other things, NP Policy LNPH1 sets out that new development should not adversely affect neighbouring amenity, and safeguarding living conditions for all is a running theme throughout the Framework.
27. Consequently, by causing significant harm to the living conditions of the occupants of Hi-Ash and The Retreat with specific regard to the privacy of the properties' gardens, the proposal would fail to comply with NP Policy LNPH1 and the Framework, and the overall aims of LP Policy D1.
28. The Council have also referenced LP Policy H1 which relates to housing mix, numbers, and types, so is not relevant to this issue.

SPA

29. The appeal site falls within the 5km zone of influence of the SPA, a protected habitats site. The proposal would create 2 additional dwellings, and so there could be recreational impact on the SPA from the additional occupants. The Council have stated that this impact could be alleviated by its own scheme of Suitable Alternative Natural Green Spaces (SANG), and Strategic Access Management and Monitoring (SAMM) of the SPA. It confirms that in accordance with its SPA Avoidance Strategy Supplementary Planning Document (SPD) a financial contribution towards the SANG and SAMM would mitigate the additional recreational impact and could be secured by a section 106 legal agreement.
30. The appellant agrees with this position and has subsequently submitted a unilateral undertaking (UU). However, the Council specified that the financial contribution for the proposal should be £16,328.90 for the SANG and £1,734.12 for the SAMM, whilst the UU would only secure £2,377.92 for the SANG and £17,852.10 for the SAMM.
31. The total of the contributions would appear similar, taking account of the annual increase required by the SPD, but the UU has allocated the wrong amounts to each scheme. Consequently, the Council could not rely on it to secure adequate contributions to mitigate the recreational impact the proposal would have on the SPA.
32. As I intend to dismiss the appeal for other reasons, I have not pursued this matter further with the main parties. Nonetheless, as it stands, I am not satisfied that the submitted UU would provide appropriate mitigation for the effect the proposed development could have on the SPA. Accordingly, the proposal does not comply with Regulation 62 of the Conservation of Habitats and Species Regulations 2010 (as amended), LP Policy P5, LP2003 Policy NE4, and NP Policy LNPEN2, with reference to saved Policy NRM6 of the South East Plan, insofar as they seek to protect habitats and ecology.

Other considerations

33. The Framework seeks to boost the supply of homes and make more efficient use of land in accessible locations. The proposal would provide 2 additional dwellings in a reasonably accessible location. However, the Council can provide a 5 year housing land supply. Therefore, along with the associated economic and social benefits, this contribution to the windfall element of the Council's housing supply attracts only limited weight based on the number of dwellings involved.
34. The appellant states the proposed dwellings would comply with the sustainable design, construction, and energy requirements of LP Policy D2. Notwithstanding the limited evidence as to how the proposal would achieve these requirements, these are elements of good design which should form the basis of all new development. Thus, this only attracts limited weight also.
35. Paragraph 147 of the Framework advises that substantial weight should be given to any harm to the Green Belt. In this case, the proposal amounts to inappropriate development, and in addition, moderate harm would be caused to the openness of the Green Belt. Accordingly, these factors attract substantial weight. The proposal would also cause substantial harm to the living conditions

of neighbouring occupants and the SPA, as well as moderate harm to the character and appearance of the area.

36. The other considerations do not clearly outweigh the totality of harm identified and therefore the very special circumstances necessary to justify the development do not exist.

Conclusion

37. The proposal would conflict with the development plan as a whole, and material considerations, including the Framework, do not indicate that a decision should be taken other than in accordance with the development plan. Having considered all other matters raised, I conclude that the appeal should be dismissed.

RJ Redford

INSPECTOR