



Appeal Decision

Site visit made on 21 February 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 APRIL 2023

Appeal Ref: APP/Y3615/W/22/3302510

Land to rear of Pinecroft, Pirbright Road, Normandy, GU3 2HU

- 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 N Sergeant, Virtus Design & Build Ltd against the decision of Guildford Borough Council.
 - The application Ref 21/P/01756, dated 11 August 2021, was refused by notice dated 1 July 2022.
 - The development proposed is subdivision of site, erection of a detached chalet style dwelling, creation of new access, and associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Guildford Borough Council adopted the Guildford Borough Local Plan: Development Management Policies (LPDMP) on 22 March 2023. As a result, Policy G1(3) of the Guildford Local Plan (2003) (GLP) cited in the decision notice has now been superseded by LPDMP Policy D5. Similarly, GLP Policy NE4 has been superseded by LPDMP policies P6 and P7. Both main parties have had the opportunity to comment on any relevant implications for the appeal and I have had regard to the LPDMP in reaching my decision.

Main Issues

3. The main issues are:
 - Whether or not 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 effects of the proposal on the living conditions of neighbouring and future occupiers, with particular regard to the effects on privacy; and

Reasons

Whether or not the proposal is inappropriate development in the Green Belt

4. The appeal site is situated in the Green Belt. Paragraph 149 of the National Planning Policy Framework (2021) (the Framework) indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One of the exceptions to this is "*limited infilling in villages*".

5. Policy P2 of the Guildford Borough Local Plan: Strategy and Sites 2015-2034 (2019) (GLPSS) enacts national planning policy, as set out in the Framework, where new development is proposed in such areas. There is no definition of 'village' within the Framework and my attention has not been drawn to any definition within the development plan.
6. The Council contends that the exception in Paragraph 149 e) of the Framework is not applicable as the appeal site is not within the village of Normandy, and the settlement that it is located within is too small to be considered a village for this purpose.
7. However, case law¹ has established that limited infilling is applicable to all villages and not restricted to sites that fall within identified settlement boundaries in local plans. Policy P2 of the GLPSS acknowledges that such infilling may be appropriate outside the relevant settlement boundary, where it can be demonstrated that the site should be considered to be within the village.
8. The appeal site is located within a generally linear settlement, largely strung out along Guildford Road and Pirbright Road. It comprises approximately 20 dwellings. The cluster of residential built form on these roads, together with a pedestrian footway, traffic lights, street lighting, and a bus stop have a further urbanising effect on the character of the area. Due to the number of dwellings and the physical extent of the settlement which, although spread out along Guildford Road and Pirbright Road, is not unduly dispersed, when viewed on the ground it could reasonably be described as a village, albeit a small one.
9. Whilst there is open countryside to its south, all of the appeal site's other boundaries would adjoin neighbouring residential plots and it is clearly within the settlement. Furthermore, the Council accept that the proposed development would close a small gap in an otherwise built-up frontage to the northern side of Guildford Road which can be considered to constitute limited infilling in this regard.
10. The proposal therefore meets the terms of the most relevant exception to inappropriate development within the Green Belt. Accordingly, I find no conflict with Policy P2 of the GLPSS nor the relevant parts of the Framework which, amongst other things, seek to prevent inappropriate development from occurring in the Green Belt.
11. As the proposal is not inappropriate development, there is no need to consider the effect of the proposal on the openness of the Green Belt, nor is there any requirement to demonstrate very special circumstances to justify the development.

Living conditions

12. The appeal site is formed of the rear section of the garden of a detached property known as Pinecroft. Pinecroft faces, and is accessed from, Pirbright Road and has a rear garden which extends to the boundary with Guildford Road. This is unusual as the local pattern of development is characterised by properties facing Guildford Road, with their rear gardens extending towards Pirbright Road. As a result of the proposed development's siting and the subdivision of the garden, both Pinecroft and the new house would have

¹ Julian Wood v SSCLG and Gravesham Borough Council [2015] EWCA Civ 195

gardens which are considerably shorter in depth than those of neighbouring properties.

13. There would be a 10.00 metre separation distance between the rear elevation of the proposed development and the shared garden boundary with a further 9.80 metre separation between the rear elevation of Pinecroft and the shared boundary. One of the proposed development's rear first floor windows would serve a bedroom and would afford views directly to the rear. Due to the orientation and proximity to the shared boundary views from this window would enable a level of overlooking which would significantly diminish the privacy of the occupiers of Pinecroft within the rear garden, which would be harmful to their living conditions.
14. I have not been provided with further details of the height of the proposed pleached hornbeam privacy screen but given the height and proximity of the first floor windows, the boundary treatment would need to be very tall in order to fully obscure views from the proposed development to Pinecroft's rear garden. Consequently, I cannot be certain that it would provide sufficient screening to protect the living conditions of the occupiers of Pinecroft.
15. At the time of my site visit construction works were underway at Pinecroft. Although I have not been provided with drawings of that scheme, it has been put to me that the works involve a loft conversion which would have rooflights rather than dormer windows. Whilst it seems to me that the level of overlooking from a room with rooflights rather than dormer windows may be unlikely to significantly harm the privacy enjoyed in the rear garden for future occupiers of the proposed development, I have no evidence before me to confirm that openings, be they rooflights or dormers, would be set a level above the finished floor such as views out would be unachievable.
16. For the above reasons I conclude that the proposed development would cause harm to the living conditions of the occupiers of Pinecroft, with reference to the effect on privacy resulting from overlooking. I therefore find that it would conflict with Policy D5 of the LPDMP which requires that new development should not result in harm to the living conditions of neighbouring occupiers.
17. In reaching this conclusion I have had regard to the submitted drawing which shows there would be around a 20 metre separation between the rear elevation of Pinecroft and the proposed development. Whilst I consider this to be a sufficient distance to prevent harmful levels of window to window overlooking to either property it does not outweigh or diminish my finding in relation to the harmful effect on the living conditions of the occupants in respect of garden space.

Other Matters

18. The Thames Basin Heaths Special Protection Area (SPA) is a network of heathland habitats for three internationally important bird species, woodlark, nightjar and Dartford warbler. The SPA is also identified at a national level as the Ash to Brookwood Heaths Site of Special Scientific Interest (SSSI). The SPA is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations).
19. Had I found the proposal to be otherwise acceptable, the Regulations impose a duty to consider within the framework of an Appropriate Assessment whether it

would have a significant effect on the conservation objectives of the SPA either alone, or in combination with other plans and projects. As part of this, I would need to consider the likely effectiveness of mitigation proposed. However, even though the appellant has indicated a willingness to enter into an agreement to address any mitigation required to address concerns related to the SPA I have no such agreement before me. In any event, given the harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further as it would not alter my findings on the main issues.

20. The concerns expressed regarding the Council's conduct during the processing of the planning application are a matter for the Council and fall outside of the remit of this appeal.

Conclusion

21. Whilst I have not found the development to be inappropriate in the Green Belt, I have found that it would harm to the living conditions of the occupiers of the existing dwelling at Pinecroft which would cause conflict with the development plan policy which seeks to protect the amenities enjoyed by the occupants of buildings.
22. There are no other considerations to indicate that the appeal should be determined other than in accordance with the development plan. Therefore, for the reasons given above, the appeal is dismissed.

B Pattison

INSPECTOR