



Appeal Decisions

Site visit made on 22 June 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2023

Appeal A Ref: APP/Q3630/W/22/3294981

The Clock House, Clockhouse Lane East, Egham, Surrey TW20 8PF

- 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 Hooper of Hooper's Homes against the decision of Runnymede Borough Council.
 - The application Ref RU.21/0581, dated 8 March 2021, was refused by notice dated 22 December 2021.
 - The development proposed is described as 'subdivision of existing plot and erect 4no 4 bedroom, 1no 3 bedroom and 1no 2 bedroom semi-detached houses with associated parking and amenity.'
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Appeal B Ref: APP/Q3630/W/22/3302718

The Clock House, Clockhouse Lane East, Egham, Surrey TW20 8PF

- 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 Hooper of Hooper's Homes against Runnymede Borough Council.
 - The application Ref RU.22/0744, is dated 3 May 2022.
 - The development proposed is described as 'single and two-storey extensions to existing dwelling and the subdivision of the rear garden to create 4no 4 bedrooms, 1no 3 bedroom and 1no 2 bedroom semi detached houses with associated parking, amenity and pedestrian enhancements.'
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed and planning permission is refused.

Preliminary Matters

3. In respect of Appeal A, the description of development in the banner heading above is taken from the Council's decision notice and the appeal form, rather than the application form, as these reflect the housing mix shown on the supporting plans.
4. Appeal A is accompanied by a Unilateral Undertaking regarding contributions relating to Habitat Sites. I have taken this into account in my determination of the appeal.
5. As part of Appeal A, documents have been submitted which were not provided as part of the application stage. This includes a Flood Risk Assessment and SUDS Report and Viability Report. As these documents would not substantially

change the proposals, and as the Council have had the opportunity to comment on them, I have taken them into account.

Main Issues

6. The Council state that, had it determined the scheme that is Appeal B, it would have refused planning permission. The reasons it would have done so have been provided.
7. Accordingly, the main issues for both Appeal A and Appeal B are as follows:
 - Whether the proposals would result in an acceptable form of development having regard to the requirements of Policy SL8 of the Runnymede 2030 Local Plan (the LP);
 - The effects on the character and appearance of the area;
 - Whether the proposals would deliver appropriate levels of affordable housing;
 - The effects on designated Habitat Sites.
8. In addition, the following main issues are also applicable to Appeal A:
 - Whether the proposal has suitable connectivity in terms of pedestrian and cycle links, and;
 - Whether suitable surface water run-off management has been demonstrated.

Reasons

Form of Development

9. Policy SL8 of the LP allocates land at Thorpe Lea Road West for housing. It sets out a minimum requirement for the delivery of additional dwellings and Gypsy/ Traveller pitches. The appeal site lies at the south eastern side of the wider allocated site and is an area which is cross hatched on the inset map accompanying Policy SL8. The policy sets out that, in the event that areas shown cross hatched do not come forward at the same time as the remainder of the allocation, they will together be expected to provide a minimum of 55 net additional residential units and 1 net Gypsy/ Traveller pitch, and sets out the requirement for the remaining site. Policy SL8, therefore, acknowledges the likelihood of the cross hatched areas coming forward at a different time, and sets out the minimum amount of development across the hatched areas taken together.
10. Despite both appeals proposing six new homes, I note the Council's refusal of Appeal A relates only to the failure to provide Gypsy/Traveller pitches. Nonetheless, the matters in dispute on both appeals relate to the delivery of the quantum of development set out in Policy SL8.
11. The Council states that in order to achieve the minimum number of dwellings and pitches required within the cross hatched area, a density of approximately 46dph would be required in addition to the Gypsy/Traveller pitch. Based on the evidence, the proposal would amount to 25dph. As a consequence, the remaining cross hatched area would need to be developed at a much higher

density and the Gypsy/ Traveller pitch would need to be provided elsewhere in order to meet the policy requirement.

12. The main parties refer to other development proposals within the area of the wider allocated site. Most notably this includes: Clockhouse Mushrooms/ Keltbray Yard¹, Milland² and Mayflower Nurseries³. Of those, I understand Milland to be similarly contained within a cross hatched area of Policy SL8. Based on the evidence before me, none of those other sites currently benefit from planning permission, having been refused or under consideration. Given the uncertainty surrounding those development proposals, they do not provide assurances that the other cross hatched sites would deliver the higher densities nor pitches required.
13. Given the size of the appeal site relative to the wider allocated site, the appellant considers the site should not generate a requirement for a pitch. I also appreciate the provision of a single pitch would need to occupy a significant portion of the site and have implications on the ability of the site to deliver an appropriate level of housing. There may also be practical issues associated with the provision of an isolated pitch, away from others which may be provided across the allocated site. These matters all point towards the need for a coherent approach across the sites. Despite these matters, it remains the case that it has not been satisfactorily demonstrated that the policy requirement would be met.
14. LP Policy SL22 sets out circumstances which would apply if an allocated site were unable to provide the required on-site provision for traveller accommodation. However, no strong evidence of a reason why the pitches could not be delivered by the allocation has been put forward, nor off site provision proposed.
15. I note the appellant's concerns that more residential units on the appeal site may require flats which would have a different effect on the character and appearance of the area. However, there is not substantive evidence to suggest that this could not reasonably be achieved if necessary, particularly given the context of the development required on adjacent sites to meet Policy SL8.
16. The issue of varied ownership may provide a barrier to a cohesive approach in delivering Policy SL8. However, there is clearly other development interest in parts of the wider site, as evidenced by recent development proposals, including that relating to a site within the cross hatched area.
17. I have had regard to the recent appeal decision at Milland⁴, which similarly falls within the cross hatched area. There is no substantive reason which would lead me to reach a different conclusion to that Inspector insofar as this main issue is concerned.
18. In conclusion on this main issue, both Appeal A and Appeal B would not result in an acceptable form of development and would conflict with Policy SL8 through failure to demonstrate that the requirements for the cross hatched area could be delivered, prejudicing the delivery of the policy. The proposals would conflict with Policy EE1 of the LP insofar as it expects development to make efficient use of land, and Policy SL22 relating to delivery of pitches for

¹ Runnymede ref RU.21/0192 – Clockhouse Mushrooms/ Kelbray Yard

² Runnymede ref RU.21/0626 and APP/Q3630/W/22/3290930 – Milland, Thorpe Lea Road, Egham TW20 8JL

³ Runnymede ref RU.21/1324 – Mayflower Nurseries

⁴ Runnymede ref RU.21/0626 and APP/Q3630/W/22/3290930 – Milland, Thorpe Lea Road, Egham TW20 8JL

Gypsies, Travellers and Travelling Showpeople. There would also be conflict with the National Planning Policy Framework (the Framework) insofar as it relates to the efficient use of land.

Character and Appearance

19. Clockhouse Lane East has a distinctly rural character as a result of the heavy enclosure of the road by hedgerows and trees and the low density of development which extends from it, including bungalows set within generous grounds. The character of Clockhouse Lane East is distinct from that to the eastern side of Thorpe Lea Road, which has a higher density of residential development, smaller plot sizes and an abundance of residential paraphernalia including varied boundary treatments.
20. As above, the site is one which is allocated for residential development and I understand the allocation entailed the removal of the site from the Green Belt. In order to facilitate the delivery of that development, a loss of the site's rural character would be inevitable to some degree. Taking this into account together with the varied character of residential development to the east, and notwithstanding the concerns for the boundary discussed below, I do not find the appearance of the proposed density nor the site layout to cause visual harm.
21. Nonetheless, the boundary treatments on Clockhouse Lane East contribute positively to its distinctive character. Policy SL8 specifically acknowledges the boundary vegetation of the wider site and states that it should be taken into account in design, layout and landscaping of the site. Both Appeal A and Appeal B would involve the removal of boundary planting along a substantial width of Clockhouse Lane East to facilitate off street parking in front of the properties. The appellant's Arboricultural Report identifies that the trees to be removed are individually of low quality with a life expectancy of more than ten years. Despite these findings and having no statutory protection, together the presence of vegetation along the boundary contributes positively to the character of the area through creating a verdant boundary.
22. Some planting including a hedgerow is proposed next to the road, but this would be limited and the frontage would be predominately open and in stark contrast with the character of the lane. The replacement planting would not therefore mitigate for the loss of the verdant boundary. While SL8 does not specifically require the retention of boundary vegetation, it requires that it be taken into account and it is not clear how the appeal schemes address this requirement.
23. Overall both Appeal A and Appeal B would cause harm to the character and appearance of the area through their failure to have regard to boundary vegetation. The proposals would conflict with Policy SL8 as set out above, and Policy EE1 insofar as it requires consideration of local context and contributions to landscape setting. There would also be conflict with the Framework which identifies the important contribution of trees to the character and quality of urban environments.

Affordable Housing

24. LP Policy SL20 includes the requirement to provide affordable housing on all sites that result in a net gain of 10 units or more. It also states that where a site has been sub-divided or is not being developed to its full potential so as to

fall under the affordable housing threshold, the Council will seek a level of affordable housing to reflect the provision that would have been achieved on the site as a whole had it come forward as a single scheme for the allocated or identified site. The Affordable Housing Supplementary Planning Document (SPD) 2022 reiterates these requirements and states that sites being subdivided or not being developed to their full potential must 'contribute proportionally towards achieving the amount of affordable housing which would have been appropriate on the whole or larger site'.

25. Given the number of land owners within the allocated site I do not consider that the land of Appeal B has been artificially sub-divided from either the wider allocated site or the other cross hatched areas. In the case of Appeal A however, the appeal site has been severed from The Clock House, which is currently part of the same site and in the same ownership. For the purposes of Policy SL20 I therefore consider the whole site to include The Clock House, as well as the garden on which development is proposed.
26. In the absence of certainty surrounding the delivery of development on other sites within the wider allocation, I have found above that it cannot be established that the requirements of Policy SL8 could be met by the quantum of development proposed. It would be consistent with my findings above to raise concerns that the appeal sites are not being developed to their full potential.
27. As a broad indication, the Council calculate that 11 dwellings would be required across The Clock House site to meet policy SL8. While I appreciate this is indicative, it is a useful indication of the level of development expected by the policy. No contradictory figures have been provided and I do not have reason to doubt the Council's broad calculations. It therefore follows that the appeals should make a contribution to affordable housing based on 11 homes which I consider to be the amount which 'would have been appropriate on the whole or larger site', as per the SPD.
28. The appellant has provided a Financial Viability Appraisal (FVA) which finds an affordable housing contribution from the development of six semi-detached homes to be unviable. This would be unlikely to change significantly even with an adjustment to the CIL payment and a degree of sensitivity testing has been included. In the absence of contradictory evidence, I have no reason to doubt the conclusions of the FVA. While there is little evidence on the matter, it is comfortable to assume that an affordable housing contribution based on 11 homes would not, in turn, be viable for the appeal schemes. I note that the FVA has not been independently assessed on behalf of the Council. However I do not find the wording of Policy SL20 and the SPD make this a compulsory requirement.
29. For the reasons given, based on the evidence, both Appeal A and Appeal B would be acceptable in terms of their delivery of affordable homes. I do not find conflict with Policy SL20 and the SPD as set out above. Neither do I find conflict with the Framework, particularly as this does not refer to the capacity of sites for affordable housing, only the quantum of development proposed at paragraph 64.

Habitat Sites

30. The appeal site is within the 5-7km buffer of the Thames Basin Heaths Special Protection Area (SPA), designated due to the presence of breeding bird

populations, whose nests are susceptible to disturbance from recreational uses. However, Regulation 63(1) of the Habitats Regulations⁵ indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As the appeals are being dismissed on other grounds it is not therefore necessary to address this in any further detail.

Connectivity- Appeal A only

31. The proposed new houses would be located a short distance from the junction with Thorpe Lea Road, where there are consistent footpaths providing links to nearby services and facilities including onward public transport links.
32. A pedestrian link is proposed within the site which would provide connectivity with the site to the north. While this may not align with the site layout previously put forward for that site, I understand it does not have planning permission and there is no certainty of the future layout of that site in any event. Overall, I am satisfied that the proposals would be capable of providing a link to the adjoining sites. I also note that in respect of Appeal B the Council state it was not considered reasonable to refuse on this basis, given the receipt of the Milland appeal decision⁶ which similarly considered connectivity.
33. For these reasons I am satisfied that Appeal A would provide good connectivity and legibility for sustainable means of transport. In this respect it would comply with Policy SL8 and the objectives of the Framework relating to easy pedestrian and cycle connections.

Surface Water Drainage – Appeal A only

34. The appellant has submitted a Flood Risk Assessment and SUDS report which proposes a variety of measures to address the potential for increased surface water run off. This includes the use of porous paving, rainwater harvesting tanks as well as an attenuation tank beneath the rear gardens of the new properties. The applicant has carried out percolation tests to determine the suitability of infiltration, however this has been shown not to be feasible.
35. I note that similar information has been found to be acceptable to the Council in the context of Appeal B. In the absence of evidence to the contrary, I find those details to be suitable for the management of surface water run off. The proposal would comply with Policy SL8 insofar as it requires effective drainage of the site without increasing flood risk within and beyond the site boundary, and Policy EE1 where it relates to surface water run-off.

Other Matters

36. The Council report that it is able to demonstrate a 5 year land supply for housing. Nonetheless, both proposals would make a modest but meaningful contribution to the local housing supply and contribute towards the national objective to boost the supply of homes. These would be on an allocated site and with good accessibility to services and facilities including public transport. The housing mix also shows consideration for identified local need. The proposals would generate economic benefits through the creation of construction jobs as well as ongoing expenditure by local residents into the local economy. Due to the scale of the proposal, together these benefits attract

⁵ The Conservation of Habitats and Species Regulations 2017

⁶ Runnymede ref RU.21/0626 and APP/Q3630/W/22/3290930 – Milland, Thorpe Lea Road, Egham TW20 8JL

moderate weight, and would not outweigh the conflict I have found with the development plan.

37. The proposals have been found to be policy compliant in other respects, for example relating to living conditions, level of parking and cycle provision and I note the absence of objections from certain consultees. However these are neutral matters and do not weigh in favour of the developments.

Conclusion

38. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, Appeal A is dismissed and Appeal B is dismissed and planning permission refused.

C Shearing

INSPECTOR