



Appeal Decision

Site visit made on 5 September 2023

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/P2114/W/20/3250542

Guildford Park Camp, Guildford Road, St Helens, Isle of Wight, PO33 1UH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Phil Salmon Planning Ltd against the decision of Isle of Wight Council.
 - The application Ref P/00670/18, dated 4 June 2018, was refused by notice dated 7 October 2019.
 - The development proposed is 57 homes, access from Guildford Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline, with appearance and landscaping reserved for future consideration. I have therefore treated any details shown on the submitted plans relating to these matters as indicative.
3. Over 5 years have passed since the application was submitted. Whilst the Council took over a year to issue a decision, the appeal itself was also subject of a prolonged period of abeyance whilst the Courts considered whether or not Guildford Road was a 'road' for the purposes of the Road Traffic Regulation Act 1984 (RTA). I shall consider the implications of the judgement below.
4. The adverse effects that nutrients in wastewater have upon the integrity of habitats sites around the Solent was first identified by Natural England (NE) in 2019, prior to determination of the application. Its relevance to the site has since become clearer. Though this was not a matter addressed within the context of either the application or its determination, it nonetheless falls to be addressed within the context of the appeal. I shall again return to this matter below.

Main Issues

5. The main issues are:
 - whether safe and suitable access to the development can be achieved and delivered;
 - the effect of the development on archaeology and non-designated heritage assets; and
 - the effect of the development on habitats sites.

Reasons

Highways

6. The site principally comprises a disused campsite containing some overgrown structures. It is accessed via Guildford Road, as would be the proposed development. Guildford Road is a private road laid out as a straight cul-de-sac, which at its south end forms a T junction with Upper Green Road. Whereas Upper Green Road is an adopted highway which forms one of the main routes into St Helens, Guildford Road is informally surfaced with an uneven covering of gravel, with stone lined gutters and stone kerbs to either side. Weeds are frequent and the condition of the surface is generally poor. There is no existing control over parking, and at the time of my visit vehicles were parked on both sides, leaving space at the centre sufficient only for a single vehicle to enter or exit the street. Based on the submissions this appears to have been typical.
7. Given the restricted width of Guildford Road there is potential for conflict between vehicles exiting onto Upper Green Road, and those entering. This in turn gives rise to an increased likelihood of vehicles entering from Upper Green Road being obliged to stand on or to undertake manoeuvres within the highway, both disrupting the flow of traffic and giving rise to potential collision hazards.
8. Upon leaving Guildford Road visibility to the right is furthermore subject of significant obstruction by cars parked close to the junction in both Guildford Road and Upper Green Road. This also obstructs forward visibility for drivers on Upper Green Road travelling towards Guildford Road, thus accentuating the risk of collision.
9. As the junction between Upper Green Road and Lower Green Road lies roughly opposite that with Guildford Road, vehicles turning in and out of the junction further exacerbate the above hazards.
10. Guildford Road evidently sees light use at present, and no recent reports of accidents have been brought to my attention. The development would however see its use changed, with a significant increase in year-round vehicular movements both along it and through the junction with Upper Green Road. This would self-evidently increase the likelihood of the vehicular conflicts, disruption and accidents outlined above. Whilst it would also offer challenges to the safe manoeuvring of large vehicles such as bin trucks into and out of the site, the surface itself is not ideally suited to supporting increased traffic.
11. To address the above matters the appellant has proposed a package of measures. These include upgrading Guildford Road to adoptable standard, and the introduction of double yellow lines to restrict parking within Guildford Road and along an adjacent section of Upper Green Road. This would increase visibility and manoeuvring space. The Council has confirmed that if these measures were implemented, safe and suitable access to the development would be achieved. Scope for delivery is however disputed.
12. The Court proceedings noted above established that Guildford Road is a 'road' for the purposes of the RTA, it can be the subject of a Traffic Regulation Order (TRO) made by the Local Highways Authority. This is regardless of the fact that Guildford Road is not an adopted highway. In theory therefore double yellow lines could be introduced to Guildford Road through a TRO.

13. Though works to a private road might well ordinarily be a civil matter, the upgrading of Guildford Road would be necessary in order to physically enable the painting of double yellow lines. As Guildford Road is unregistered its ownership is presumed to fall within the hands of the property owners to either side, some of whom form the Guildford Road Street Managers Association. Representations received in relation to both the application and appeal indicate that many of the presumed owners of the road, including members of this body, strongly object to the scheme.
14. Whilst opposition to a TRO might potentially be overcome if it was deemed to be in the public interest, it is unclear how the required upgrading of Guildford Road could be achieved without the cooperation of its presumed owners. In view of the level of opposition, the evidence before me therefore indicates that there is no prospect at all that all the works required to achieve safe and suitable access to the development would be delivered within the context of the appeal scheme. The works could not therefore be secured by Grampian condition, and no other suitable means by which they could be secured has been set before me.
15. Guildford Road previously served as the means of access for the campsite, and at that time it presumably saw a much greater level of seasonal use by vehicles than it does at present. The campsite has not been operational for many years, and past evidence relating to its use is principally contained within the submitted archaeological reports. The Council does not however consider that the use has been abandoned. Consequently, whether or not the proposed package of improvements was in place, there exists a theoretical possibility that Guildford Road might once again be used as an access route by campers. Even so, I have been provided with no reason to believe that a resumption in the campsite use is likely. I therefore attach little weight this potential, and it does not serve to justify the lack of safe and suitable access to the proposed housing development.
16. For the reasons outlined above I conclude that the appellant has failed to demonstrate that safe and suitable vehicular access to the development can be both achieved and delivered. The development would therefore conflict with Policy DM2 of the Island Plan: Isle of Wight Core Strategy 2012 (the Island Plan), which, though not specifically concerned with highway safety, sets out the expectation that developments will provide a safe built environment.

Archaeology

17. The application was partly refused on the basis that insufficient information had been submitted in relation to the archaeological potential of the site, and the significance of on-site air raid shelters. Further evidence was however submitted to address these matters during the course of the appeal. Though this met with objection from the Council, it has provided comments, and I am satisfied that the interests of no party have been prejudiced by acceptance of this evidence.
18. Trial trenching has established that the archaeological potential of the soil cover on the site is low. This includes in relation to the Wootton Gravel Complex Member, which has been identified as providing high potential for Palaeolithic material at a site nearby. This fieldwork does not appear to have been supplemented by recommended geotechnical investigation of boreholes. This would have provided a more comprehensive picture. Nonetheless, the

evidence is sufficient to indicate that the matter could be addressed by the imposition of a condition securing a watching brief.

19. A survey of the air raid shelters has confirmed that they are in poor condition and not of a rare type. Though the Council has indicated that they may nonetheless be suitable candidates for local listing, I have not been provided with any confirmation of their designation. Whilst this does not prevent them from being considered as non-designated heritage assets, their significance appears to be limited. Aside from their condition and lack of rarity, the school buildings with which they were most likely associated have been demolished. The appellant has otherwise proposed to 'relocate' the shelters to a local museum, albeit few details have been provided, and the practicality of relocation is unclear. Further details could however be obtained by condition.
20. For the reasons outlined above I conclude that the effect of the development on archaeology and non-designated heritage assets would be acceptable. The development would therefore comply with Policy DM11 of the Island Plan which broadly sets out evidential requirements in relation to the historic environment, and seeks to positively conserve and enhance the special character of the Island's historic and built environment.

Habitats sites

21. The site lies close to and within the catchment of the Solent, which is covered by multiple habitats sites designations. Those relevant are the Chichester and Langstone Harbour Special Protection Area (SPA) and Ramsar, the Solent and Southampton Water SPA and Ramsar, the Portsmouth Harbour SPA and Ramsar, and the Solent Maritime Special Area of Conservation (the habitats sites). The proposed development would support an increase in population, giving rise to increased discharges of waste water, and a likely increase in use of the habitats sites for recreational purposes. Potentially significant in-combination effects on the integrity of the habitats sites cannot therefore be excluded. In accordance with the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) an Appropriate Assessment is therefore required.
22. The designation of the habitats sites relates to the priority habitats and species, including the range of birds, that they support. Conservation objectives seek to maintain or restore integrity, including that of qualifying features. Increased discharge of nutrients in waste water would contribute towards harmful eutrophication, whilst increased use of the habitats sites for recreational purposes could cause degradation and disturbance, all at odds with the conservation objectives.
23. The Council's strategy for mitigation of recreational disturbance is set out within the Solent Recreation Mitigation Strategy 2017, which was produced in cooperation with Natural England (NE). Mitigation is achieved by the funding of Site Access Management and Monitoring measures through developer contributions. The required contribution has been secured by an obligation within a submitted Section 106 Agreement (S106).
24. As advised by NE, mitigation of nutrients in wastewater is achieved by demonstrating nutrient neutrality. In this regard the appellant has completed a nutrient budget and proposed that the additional nutrient load would be offset through the purchase of credits representing land that would be removed from

agricultural production at a nutrient offsetting site. Two sites have been identified, at least one of which is in the same catchment. A submitted Unilateral Undertaking (UU) contains an obligation which further prevents development from commencing until written evidence has been provided of the purchase of credits. I appreciate that the UU utilises a model clause, and that credits were reportedly available as of mid-July 2023. I also appreciate the appellant's reluctance to pay a deposit to secure the future purchase of credits in advance of a decision. However, as it stands, no credits have been secured, there is no certainty that the credits identified will remain available, or therefore that credits could be secured at a suitable site. Moreover, no details of how offsetting measures are or would be secured at any candidate offsetting site have been provided. Nor would these be secured under the terms of the UU. Given these shortcomings I am unable to conclude that the development would achieve nutrient neutrality. The scheme's likely significant effects on the integrity of the habitats sites would not therefore be fully mitigated.

25. Alternative solutions which would have a lesser impact on the integrity of the habitats sites clearly exist. Whilst this might include the provision of dwellings within a different catchment, my findings above indicate that properly evidenced and secured mitigation measures might address the issue. Allowing the appeal would therefore be contrary to the Habitats Regulations, and thus unlawful.
26. For the reasons set out above I conclude that the development would have a likely adverse effect on the integrity of the habitats sites due to a failure to demonstrate nutrient neutrality. The development would therefore conflict with Policy DM12 of the Island Plan, which amongst other things seeks to protect designations relating to biodiversity.

Other Matters and Considerations

27. Guildford Road falls within St Helens Conservation Area (the Conservation Area), and the site otherwise partly abuts the designation. Insofar as it is relevant to this appeal the significance of the Conservation Area resides in the historic layout of the settlement and the collection of historic buildings and spaces this contains. In this regard I find no reason to question the Council's finding that a complementary development could be provided on the site, and that highways improvements could also deliver some enhancement; the latter presumably taking account of existing stone kerbs and gutters. Notwithstanding my findings above in relation to highways matters, I am therefore satisfied that the development would preserve and modestly enhance the Conservation Area and conserve its setting.
28. The scheme would conflict with the development plan taken as a whole. In the absence of a 5YHLS, the Framework however indicates that for the purposes of decision making the policies most important for determining the application are deemed 'out-of-date'. Even so, to the extent that the policies with which I have identified conflict address safety and biodiversity, I am satisfied that they broadly reflect similar considerations set out within the Framework. When assessed against the Framework itself, my findings in relation to the habitats sites in any case provide a clear reason for refusing planning permission. Insofar as it has been referenced, the 'tilted balance' is not therefore applicable.

29. The development would provide a mix of market and affordable dwellings, the latter secured by the S106. Assuming deliverability, this would help to address the shortfall in 5YHLS, the current size of which is unclear. Whatever its size, and whatever weight I might attach to the related social and economic benefits, this would not however be capable of outweighing the harm I have identified above. The same applies when additionally taking account the scope for modest enhancement of the Conservation Area, and the proposed provision of community parking space within the site.

Conclusion

30. For the reasons set out above the development would be unacceptable, giving rise to conflict with the development plan. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR