



## Appeal Decision

Site visit made on 6 September 2023

**by Juliet Rogers BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 September 2023**

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**Appeal Ref: APP/R3650/W/23/3319178**

**Land South of Goose Cottage, Green Lane, Dockenfield, Farnham, Surrey GU10 4JD**

- 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 David Kirkby against the decision of Waverley Borough Council.
  - The application Ref WA/2022/02045, dated 12 August 2022, was refused by notice dated 17 March 2023.
  - The development proposed is the erection of a 1-bed dwelling (in the alternative to permission granted for a double garage under WA/2017/1498).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Since the application was determined, the Waverley Local Plan 2002 has been superseded by the Waverley Borough Local Plan (Part 2): Site Allocations and Development Management Policies (the Local Plan Part 2), adopted on 21 March 2023. As a result, the Retained Policies D1, D4, D6 and D7 of the Waverley Borough Council Local Plan 2022 referred to on the decision notice have been replaced by policies DM1, DM4, DM5, DM11 and DM15 of the Local Plan Part 2.
3. The Council referred to the National Planning Policy Framework 2021 (the Framework) on the decision notice. A new version of the Framework came into effect in September 2023. However, as the Framework's policy content insofar as it relates to the main issues is unchanged, I do not need to seek views from the appeal parties in this respect.

### Main Issues

4. The main issues are:
  - the effect of the proposed development on the character and appearance of the area, with particular regard to the Area of Great Landscape Value (AGLV) and trees;
  - the effect of the proposed development on biodiversity; and
  - whether the proposed development would provide satisfactory living conditions for future occupiers with particular regard to internal floor space.

## Reasons

### *Character and appearance*

5. The appeal site comprises an area of land adjacent to the property known as Goose Cottage on Green Lane. It lies outside any defined settlement boundary and within the area designated as Countryside Beyond the Green Belt. The latter is recognised by Policy RE1 of the Local Plan (Part 1) 2018 (the Local Plan Part 1) for its intrinsic character and beauty. It is also located within an AGLV, designated for its landscape value as well as a buffer to an Area of Outstanding Natural Beauty (AONB). Although a local landscape designation, Policy RE3 of the Local Plan Part 1 applies the same principles for protecting the AONB to the AGLV by seeking to protect and enhance the character and qualities of that landscape.
6. The surroundings of the site are predominantly characterised by large, detached dwellings informally sited within mature and often substantial gardens. Green Lane comprises a narrow carriageway which rises with the topography from its junction with Dockenfield Street and The Street. Combined with the existing mature landscape features adjacent to the lane and the denser areas of substantial trees in the wider surroundings, this creates a semi-rural character to Green Lane. This character contributes positively to the local distinctiveness of the area, including the intrinsic character and beauty of the Countryside Beyond the Green Belt and the AGLV.
7. Whilst fenced off separately from Goose Cottage, the evidence before me indicates that the appeal site previously formed part of its curtilage. The proposed development would provide a single-storey, one-bedroom dwelling. Given its size, it would contrast starkly with the informally sited large, detached dwellings nearby and their generous plots. This is further emphasised by the absence of any particular rhythm or consistency with the form of buildings in the area. Irrespective of any simple and sound architectural principles that led to the design of the proposed dwelling, its proportions and relative scale to the site would be out of keeping with the character of the area. As such, the appeal scheme would cause harm to the semi-rural character and local distinctiveness of the area. I am not satisfied that the use of conditions to control the appeal scheme attached to the grant of planning permission, had I been minded to allow the appeal, would alter this.
8. The small scale of the appeal site and the sub-divided plot of Goose Cottage also represent a significant departure from the surrounding prevailing pattern of development, as concluded by previous Inspectors<sup>1</sup> on the site. Irrespective of the current owner's acceptance of the size of the plot at Goose Cottage, the tightly positioned boundary fencing around the cottage results in a cramped layout, causing harm to the distinctive semi-rural character of the area.
9. The proposed bin and cycle store would be located within the root protection area of a group of trees subject to a Tree Preservation Order (TPO)<sup>2</sup>. Despite being located within the No Dig Construction zone indicated on the Tree Protection Plan<sup>3</sup>, the application plans refer to the use of brick and clay tiles in the construction of the store. Such a construction is unlikely to be lightweight

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<sup>1</sup> Appeal Refs: APP/R3650/W/19/3242100 and APP/R3650/W/22/3290216

<sup>2</sup> Group G1 of TPO 12-21 dated 16 July 2021

<sup>3</sup> Rev A dated February 2023 and prepared by GHA Trees

nor be possible without the need for footings, even if the store could be described as small and lightweight. However, had I been minded to allow the appeal, a condition could have been attached to the grant of planning permission requiring details of the construction design and materials to be approved by the Council as part of a landscaping scheme.

10. Nevertheless, I conclude that the proposed development would cause unacceptable harm to the character and appearance of the area and would not safeguard the intrinsic beauty of the countryside, including the AGLV, even if it would not be isolated from everyday services and facilities. As a result, it would conflict with policies NE2, RE1, RE3 and TD1 of the Local Plan Part 1 and policies DM1, DM4, DM11 and DM15 of the Local Plan Part 2. These policies, amongst other aspects, require new development to respect the distinctive local character of the area and not cause harm to its visual character. Further, that the landscape character is maintained and enhanced. I also find conflict with Chapters 12 and 15 of the Framework which seek to ensure development is sympathetic to its local character and protect and enhance valued landscapes.

### *Biodiversity*

11. Policy DM1 of the Local Plan Part 2 requires, amongst other environmental considerations, development to avoid negative impacts on biodiversity and deliver the minimum biodiversity net gain of 10 percent as required by the Environmental Act 2021.
12. An Ecological Assessment prepared by The Ecology Co-op was submitted as part of the application. Although dated 8 August 2019, the report provides findings from various surveys undertaken in July 2019<sup>4</sup> in addition to February<sup>5</sup>, March and April 2017<sup>6</sup>. An updated Preliminary Ecological Appraisal (PEA) survey, also by The Ecology Co-op, was undertaken in October 2022 and submitted during the determination period of the application. This concluded that, as the site had been cleared since the 2017 and 2019 surveys were undertaken, habitats supporting existing reptiles and those potentially supporting certain mammals and nesting birds had been removed. Whilst concerns have been raised by the Council regarding the age of original surveys, I am satisfied that the information provided in October 2022 provides suitably up-to-date ecological information.
13. Notwithstanding the above, I have limited substantive evidence before me demonstrating that the works to clear the site took place under ecological supervision and the mitigation recommendations set out in the Ecological Assessment undertaken. Furthermore, although opportunities for ecological enhancements are recommended in the updated PEA, a detailed Ecological Mitigation and Enhancement Plan (EMEP), as requested by the Surrey Wildlife Trust, has not been provided. Therefore, I am concerned that any planning permission granted would not adequately avoid negative impacts on biodiversity nor provide appropriate enhancements in accordance with Policy DM1 of the Local Plan Part 2. Consequently, this is a matter which should be resolved before planning permission is granted, rather than it being left to a planning condition.

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<sup>4</sup> Site Walkover Survey

<sup>5</sup> Preliminary Ecological Appraisal

<sup>6</sup> Reptile Survey

14. Whilst I acknowledge that such concerns were not material considerations in another dismissed appeal<sup>7</sup> on the site, matters relating to the loss or enhancement of biodiversity were not one of the main issues of that appeal.
15. For the reasons above, I conclude that the proposed development would unacceptably harm biodiversity, contrary to Policy NE1 of the Local Plan Part 1 and Policy DM1 of the Local Plan Part 2 which seek to conserve and enhance biodiversity. It would also conflict with Chapter 15 of the Framework which requires development to minimise impacts on and provide net gains for biodiversity.

#### *Living conditions*

16. The proposed dwelling would provide a one-bedroom dwelling with a Gross Internal Area (GIA) of 37 square metres. This would meet the standards set out in the Government's Technical Housing Standards<sup>8</sup> for a one-person unit with a shower room rather than a bathroom. However, the proposed bedroom would be of sufficient size to support a potential occupancy of two people. A one-bedroom dwelling providing two-bed spaces has a minimum GIA of 50 square metres. Therefore, the proposed dwelling falls unacceptably short of the required amount of space.
17. I conclude that the proposed development would not provide satisfactory living conditions for future occupiers with respect to the internal floor space provided, contrary to Policy TD1 of the Local Plan Part 1 and Policy DM5 of the Local Plan Part 2. These policies require new housing developments to demonstrate they provide adequate internal space for future occupiers through meeting, as a minimum, the Technical Housing Standards.

#### **Other Matters**

18. My attention has been drawn to the previously approved detached garage<sup>9</sup> to serve Goose Cottage on the appeal site. Given this approval, there is more than a theoretical possibility that the garage could be constructed. However, the approved scheme does not include the subdivision of the larger plot previously associated with Goose Cottage. Furthermore, although of a similar scale to the proposed development, the approved detached garage would be an ancillary building to Goose Cottage. As it would form part of the overall Goose Cottage plot it would maintain the prevailing pattern of development I have identified above. Therefore, the proposed development would cause greater harm to the character and appearance of the area. I therefore attach moderate weight to this fallback scenario.
19. The proposed development would provide social and economic benefits from the construction and occupation of a new dwelling of a starter home size within a rural area. However, these benefits would be small given the scale of the appeal scheme, and I attach moderate weight to this public benefit. Similarly, any environmental benefits derived from the provision of an air-source heat pump would also be small due to the size of the proposed development. I therefore give this limited weight in my decision. Whilst existing services and infrastructure already exist in the area, and public resources may not be required to improve services, this is a neutral factor.

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<sup>7</sup> Appeal ref: APP/R3650/W/22/3290216 dated 5 July 2022

<sup>8</sup> National Described Space Standard

<sup>9</sup> Council ref: WA/2017/1498

20. The appellant asserts that the Council accepts that the proposed development represents sustainable development and complies with the three overarching objectives of sustainable development relevant to the planning system. However, in referring to sustainability in the Officer's Report, the Council focuses on the guidance contained within the Climate Change and Sustainability Supplementary Planning Document (the SPD). The SPD amplifies the Council's development plan policies on climate change and sustainability and the Council, with respect to the appeal scheme, recommends the use of conditions to secure appropriate sustainability measures. I have found that the proposed development would cause unacceptable harm to the character and appearance of the area and biodiversity. Also, it would not provide satisfactory living conditions for future occupiers. As such, the social and environmental objectives of sustainable development, as set out in paragraph 8 of the Framework, would not be met, irrespective of any compliance with the SPD.
21. The site is located within 5km of the Wealden Heaths Special Protection Area (SPA), a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017. Although not an issue raised by the Council, it is incumbent upon me as the competent authority to consider whether the proposed development would be likely to have a significant effect on the integrity of the SPA. As I have found that the appeal scheme is unacceptable for other reasons, it is not necessary for me to further consider the implications of the SPA.

### **Planning Balance**

22. As recognised by the Framework, the countryside is protected for its intrinsic character and beauty, and development should be sympathetic to the natural landscape and local character. As policies NE2, RE1, RE3 and TD1 of the Local Plan Part 1 and Policies DM1, DM4 and DM11 of the Local Plan Part 2 are broadly consistent with the Framework in this regard, I give the proposed development's conflict with these policies significant weight.
23. Policy NE1 of the Local Plan Part 1 and Policy DM1 of the Local Plan Part 2 support the objectives of the Framework to minimise impacts on and provide enhancements for biodiversity. Given the absence of an EMEP, the appeal scheme conflicts with these policies. This conflict, therefore, attracts moderate weight.
24. In respect of living conditions, the Framework seeks to ensure new houses provide a high standard of amenity for existing and future users, and that policies may also make use of the nationally described space standards. Policy TD1 of the Local Plan Part 1 and Policy DM5 of the Local Plan Part 2 are consistent with the Framework's objectives and include the aforementioned standards. As I have found that the proposed development would be contrary to these policies, I attach moderate weight to this conflict.
25. There is no disagreement between the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 74 of the Framework. Both main parties agree that the latest position comprises between 4.15 and 4.56 years of deliverable housing sites. In these circumstances, paragraph 11dii of the Framework states that permission should be granted unless policies in the Framework that protect an area or assets of particular importance provided a clear reason for refusing the development or any adverse impacts of doing so would significantly and

demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As such, the most important policies for determining the appeal are deemed to be out of date and the presumption in favour of sustainable development is engaged. However, being out of date does not mean that the policies of the Local Plan Part 1 or Part 2, carry no weight in decision-making.

26. The Framework affirms the Government's objective of boosting the supply of homes and therefore, the provision of additional housing in an area where a shortfall in deliverable housing sites exists would be a public benefit. Even if I were to conclude that the appeal site is currently underutilised or defined as previously developed garden land outside a built-up area, the proposed development would provide a net gain of one dwelling. As such I attach moderate weight to this benefit and other social and economic benefits that follow. Additionally, I attach limited weight to the environmental benefits which would arise from the proposed development given its scale.
27. As described above, the Framework gives significant weight to the importance of protecting valued landscapes and resisting development which is unsympathetic to local character. The proposed development's conflict with the Framework on these matters, therefore, carries significant weight. Additionally, I attribute moderate weight to the appeal scheme's conflict with the Framework's objectives of minimising the impact of development on biodiversity and providing a high standard of living conditions for future occupiers.
28. Consequently, the identified adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply.

## **Conclusion**

29. The proposed development conflicts with the development plan as a whole and there are no material considerations, either individually or in combination, including the Framework and its presumption in favour of sustainable development, that outweigh this conflict.
30. For the reasons identified above, the appeal is dismissed.

*Juliet Rogers*

INSPECTOR