



Appeal Decision

Site visit made on 5 December 2023

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2023

Appeal Ref: APP/D3640/W/23/3323755

Westcroft Park Farm, Windlesham Road, Chobham, Surrey GU24 8SN

- 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 A Searchfield of Searchfield Ascot Park Ltd against Surrey Heath Borough Council.
 - The application Ref 22/1001/FFU, is dated 29 September 2022.
 - The development proposed is construction of 20 dwellings with associated parking, access and landscaping following demolition of existing buildings (except Post Box Cottage).
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The Council failed to determine the application within the statutory time limit. However, it presented a report to committee (27 July 2023) which set out six reasons why it would have refused planning permission had the appeal not been lodged.
3. One of these purported reasons included reference to a lack of amenity space for the apartments 8, 9 and 10. During the appeal revised plans were submitted which the Council was satisfied would address this specific issue. I have no reason to take a different view and do not consider anyone would be prejudiced by my acceptance of these revised plans. I have determined the appeal accordingly.
4. Another purported reasons for refusing the proposal arose from the lack of a planning obligation to provide contributions towards mitigation measures necessary to protect the Thames Basin Heaths Special Protection Area (TBHSPA). An executed S106 planning obligation was submitted during the appeal. This would secure the necessary mitigation measures to protect the TBHSPA.
5. The S106 agreement would also provide an appropriate mechanism for securing the three affordable homes offered by the appellant. Notwithstanding the fact that there is an outstanding dispute between the parties as to the amount of affordable housing which should be provided, I have taken the obligation into account in reaching my decision.

Main Issues

6. The main issues are therefore whether the proposed development would:

- a) be inappropriate development in the Green Belt having regard to local and national planning policy;
- b) be harmful to the character and appearance of the area;
- c) be a suitable location for a residential development having regard to the Council's spatial strategy and the site's accessibility to local facilities and services;
- d) provide an acceptable level of affordable housing.

Reasons

Inappropriate development

7. The appeal site is an area of about 1.83ha situated on the north side of Windlesham Road between Chobham and Windlesham. It is part of the Westcroft Park Polo Club and Academy. It comprises a collection of buildings and barns including stables, tack rooms, offices, associated staff accommodation together with an open area used for storage and parking.
8. The site lies within the Green Belt to which the Government attaches great importance. The essential characteristics of Green Belts are their openness and their permanence. The National Planning Policy Framework (the Framework) states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt subject to a series of specific exceptions. The Surrey Heath Core Strategy and Development Management Policies (CSDMP) was adopted in 2012 and therefore pre-dates the Framework. It does not address the issue of redevelopment of previously developed land (PDL) in the Green Belt. It is therefore common ground that the scheme should be assessed against paragraph 149 g) of the Framework.
9. The proposal seeks to replace the existing buildings with 20 dwellings, including 3 shared ownership flats. It is agreed that these flats, which meet the Framework's definition of affordable housing, would contribute to meeting an identified affordable housing need in the district. They would be secured in perpetuity through the S106 agreement. There is no requirement for the contribution towards affordable housing to reach a particular threshold, or meet the tenure of greatest need, to trigger the test of the second limb of paragraph 149 g). Consequently, the determining factor in respect of inappropriateness in this case is whether the proposal would result in substantial harm to the openness of the Green Belt. It is evident from other appeal decisions which have been put to me that substantial harm is a 'high bar'.
10. Openness is generally understood to be an absence of development and has both spatial and visual aspects. The proposed development would have a smaller overall footprint than the existing buildings, a reduction of some 35%. There would be a small reduction in the overall volume of development of 5%. The overall site coverage and areas of hardstanding would both be significantly lower, 42% and 45% respectively.
11. However, the siting of the buildings would be further from Windlesham Road. Whilst this would increase the sense of spaciousness at the front of the site, it would have the effect of encroaching development into the area currently used for storage and parking. Although this area is unkempt and untidy, in the absence of any evidence of previous structures, I do not consider it can be

described as degraded or derelict. The lack of permanent construction above ground level creates a softer and larger area of transition between the existing buildings and the open, undeveloped fields beyond the site. The scheme would simply shift the envelope of development further to the north and away from the existing development which characterises Windlesham Road. In my view this would be harmful to openness even though the site is visually contained on its eastern and western boundaries.

12. Although some of the existing buildings, such as the grooms' accommodation, are fully enclosed, the largest buildings on the site are open-sided. This offsets their size and the extent of their long ridge lines to a considerable degree. The existing buildings therefore provide a greater sense of openness across the site than houses which would be fully enclosed, even though there would be gaps between them. The other principal difference between the existing development and the proposal is the height of the buildings. At present the maximum height is 7.55m. By contrast the ridge height of the proposed dwellings would range from 7.45m to 9.7m. This would also reduce openness to a limited extent.
13. The impact of a development on openness is not only related to its size, whether considering footprint, height or volume, but also to its use. Equestrian activities take place in rural areas. Replacing them with a residential use would represent a significant change. Homes would generate daily activities both on site, and to and from it, throughout the year. Alongside the buildings, the creation of gardens would introduce domestic paraphernalia and vehicles parked throughout the site. The use of the site for permanent homes would be quite different from the pattern of activities associated with equestrian use, with its weekly peaks and troughs, and seasonal variations. Therefore, to the extent that two of the purposes of the Green Belt are to prevent urban sprawl and safeguard the countryside from encroachment, the proposed change of use would also be harmful to openness.
14. I have been referred to a number of appeal decisions where Inspectors have concluded that the harm to the Green Belt was less than substantial, although from what I have read, none of these decisions were directly comparable with the proposal before me.
15. Taking all the above factors and site-specific circumstances into account, the proposal would cause significant harm to the openness of the Green Belt. However, in view of the reductions in both the footprint and volume of development, the overall harm to openness would be less than substantial. I therefore conclude that the scheme would not be inappropriate development in the Green Belt and would meet the exception set out in the second limb of paragraph 149 g) of the Framework.

Character and appearance

16. Windlesham Road is a two-lane rural road with grass verges, partially enclosed by mature hedges and trees. There are buildings alongside it associated with agricultural, horticultural and equestrian activities, all of which are compatible with the semi-rural surroundings. There is also sporadic residential development along its length. Some of these properties are well-established, large dwellings set in substantial plots well set back from the road.

17. A little way to the east of the appeal site is an area of ribbon development comprising a variety of dwellings including small bungalows and detached and semi-detached, two-storey houses. Most are set back from the road behind walls and hedges and have private driveways, although part of the group is accessed by a small service road, Woodcock Drive. However, this area of residential development is highly contained and does not penetrate into the countryside beyond the individual rear gardens. Almost the full length of the eastern side of Woodcock Lane, which is just to the east of the appeal site, is occupied by the glasshouses, buildings and growing areas associated with a large horticultural business. To the west of the appeal site is Westcroft Park House, an exceptionally large manor house in substantial and manicured grounds reached via a driveway from Windlesham Road.
18. In this context the introduction individual properties without direct road frontage would be out of keeping with other residential development in the vicinity. The proposal would create a self-contained enclave of houses which would fail to relate to, or integrate with, its surroundings. The arrangement of the dwellings would reflect to some extent the pattern and layout of the existing buildings forming straight lines parallel to each other with relatively small gaps between them. However, the proposal would shift the footprint of development away from Windlesham Road towards the rear of the site and the open countryside beyond. It would also introduce residential uses closer to Woodcock Road. The overall height of development would be greater than that of buildings in the surrounding predominantly rural area. All these changes would harmfully diminish the rural character of the countryside.
19. Residential development would also fundamentally change the character of the use of the site. It would no longer be an equestrian use, which is one that can be expected to occupy a rural location. Instead, it would be suburban in character with houses, gardens, domestic paraphernalia, hardstanding for cars, roads and shared driveways to provide access, together with the comings and goings that typify a residential area. Even the green spaces within the development would require management and maintenance giving them a suburban rather than rural appearance.
20. It is intended that landscaping along the boundaries would screen the development from view. Whilst this would provide a degree of integration, the primary purpose of planting and landscaping should not be to hide development that would otherwise be unacceptable. There would be a significant uplift in on-site landscaping and an increase in on-site biodiversity. However, these benefits of the proposals are insufficient to offset the harm caused by the introduction of suburban style development into the semi-rural surroundings.
21. For all these reasons, I conclude that the proposal would harm the character and appearance of the area, contrary to Policies CP2 and DM9 of the CSDMP which seek high quality design that respects its context and creates a strong sense of place.

Suitability of location

22. The Council's spatial strategy is set out in Policies CP1 and CP11 of the CSDMP. Policy CP1 directs development towards locations that make best use of infrastructure and services whilst respecting the character of the Borough. It is intended that new development would primarily come forward through

redevelopment of PDL in the western part of the Borough within or close to existing settlements. As a small village, Chobham has limited capacity to accommodate any new development.

23. Policy CP11 states that development will be required to demonstrate that it can be made sustainable, reducing the need to travel, and promoting travel by sustainable modes. All new development should be appropriately located in relation to public transport and the highway network. This is consistent with the approach set out in the Framework which advocates locating significant development where there is a genuine choice of transport modes, whilst recognising the opportunities to do so will vary between urban and rural areas (paragraph 105). The Framework also requires development to give priority first to pedestrian and cycle movements both within the scheme and with neighbouring areas (paragraph 112).
24. The appeal site is some distance from any settlement which offers a range of facilities and services. Windlesham Road is a rural, unlit road with bends and a speed limit of 40mph. There are no footways in either direction from the site and the grass verges are not continuous. To reach Chobham on foot, which is 2.5km away, any pedestrian would have to walk in the road for part of their journey. There are no schools, shops, medical or other community facilities within a safe, or convenient, walking distance. For similar reasons, the use of Windlesham Road cannot be considered as a safe or desirable route to use regularly to cycle to school or places of work. Neither would it be practical to walk from the site to catch a bus, as the nearest stop is some 1.6km away. Any journeys by rail would be likely to be taken in combination with driving to the station which, in all probability, would be from Woking which has better services than Longcross.
25. There may be occasions where a small number of new homes are permitted in some rural locations for exceptional reasons and travel choices will be necessarily limited. However, the appeal scheme is a major development of 20 homes in an area where no genuine choice of travel mode could be provided. The practical reality is that the vast majority of journeys would be quicker, safer, and more conveniently undertaken by private car. Future residents would be almost entirely reliant on private transport to reach the facilities that they require on a day-to-day basis. It was for all these reasons that the highway authority raised objections to the proposal in two of its responses to consultation.
26. To address the highway authority's objections the appellant presented an assessment of the existing traffic movements to and from the site based on information from the TRICS database. This also took account of the fact that the operation of the existing polo club is split between the appeal site and an area on the south of the Windlesham Road. The analysis showed that the appeal site would generate significantly fewer trips than the existing operation, a reduction of some 75%, with corresponding reductions in emissions. However, the assessment was not based on any direct observations of the current operation and from the evidence it is not clear to what extent the polo club will continue to operate from this area or would move elsewhere. I therefore am not satisfied that this assessment provides a complete understanding of the current operation or how it would change if the appeal site was no longer in equestrian use. This limits the weight I can give to it in my overall assessment.

27. The updated transport assessment also suggested that the proposal would have significant highway safety benefits. These would primarily be achieved through the closure of existing sub-standard accesses, and removal of equestrian crossings and tractor movements on Windlesham Road between the northern and southern access points. From the presented evidence neither of the minor, sub-standard accesses are currently being used, so benefits from their permanent closure would be negligible. Whilst removing equestrian crossings could be beneficial, there is no evidence that these currently cause road safety problems. Only 3 personal injury accidents were recorded along Windlesham Road in the latest 5-year period. Only one was near the site and did not involve a ridden horse. It could therefore reasonably be concluded that the proposal would have a neutral effect on highway safety. However, this would only be the case if the same, car-based travel pattern continued from the proposed development. On the other hand, if future occupants of the proposed dwellings attempted to walk or cycle to local destinations, they would feel vulnerable and at significant risk to their safety along this unlit, rural road.
28. Although the highway authority appeared to withdraw its objection in its third response, dated 5 July 2023, it repeated its previous concerns that the site is not located within reasonable walking distance of key services and that future residents would be heavily dependent on the private car. It maintained its view that in this respect the proposal would be contrary to Policies CP1 and CP11 of the CSDMP. However, it then went on to say that it would be for the local planning authority to weigh the highway authority's advice against other policies in the CSDMP and the Framework. If, having done so, the Council considered the scheme was acceptable, the highway authority set out a series of conditions which it wished to see imposed on any planning permission.
29. Only two of the conditions would be likely to encourage future residents to choose sustainable modes of travel for their journeys. Firstly, the provision of secure cycle parking should at least encourage cycle ownership and use, even if cycling was only undertaken for leisure trips. Although travel plan statements are not normally required for developments of less than 50 dwellings, the second condition would secure provision of a Travel Information Pack to be given to first time occupiers. Whilst such travel information might be of interest to future occupants, as there are no realistic alternatives to the car, it would do little to encourage use of sustainable travel modes and have minimal effect on long term travel patterns. A Travel Plan was submitted with the application and set out good intentions. However, surveys to set targets post development are too little, too late and for all the above reasons the suggested measures are unlikely to be effective. Moreover, the S106 agreement does secure the commitment or investment that would be required to deliver any travel plan. This leads me to conclude that the suggested conditions would be ineffective and would not make the site accessible by sustainable modes of transport.
30. In my view it is not possible to make direct comparisons between the existing equestrian use of the site, which is a trip attractor, and a residential use which would be a trip generator. It is to be expected that users of the existing site will come from multiple origins, mostly by car as the activities require a rural location to operate. This is fundamentally different from the trips which would be generated by residents as they go to work, school, shopping and undertake leisure activities. In rural areas the Framework states that housing should be located where it will enhance or maintain the vitality of rural communities, especially where this would support local services (paragraph 79). The distance

from any such facilities from the appeal site, combined with the lack of any practical choice of travel mode to reach them, means that this site is not one which finds support from the Framework.

31. For all the above reasons I conclude that the site is not suitable for a residential development due to the lack of access to local facilities and services by modes other than the car. The proposal conflicts with the spatial strategy and locational approach to movement set out in CSDMP Policies CP1 and CP11, and the requirements in Policies CP2 and DM9 for development to provide easy access to a range of high-quality services. It would also be contrary to the advice of the Framework set out in paragraphs 79, 105, 110 and 112. This would be the case, even though the proposal would not cause any unacceptable impacts on highway safety or lead to severe residual impacts on the operation of the road network. Whilst the proposal should therefore not be prevented on highway grounds, as indicated in paragraph 111, it would conflict with the wider transport and locational objectives of the Framework as a whole.

Affordable housing

32. Policy CP5 of the CSDMP requires developments of more than 15 dwellings to provide 40% as affordable homes. The proposal would provide 3, namely a 15% contribution and a shortfall of 5 units. The appellant's initial viability assessment indicated a deficit in excess of £1m, thereby suggesting that the scheme could not make any contribution towards affordable housing. Nevertheless, following negotiations, the offer of 3 small flats was included within the scheme.
33. The Council continued to contest the appellant's viability assessment and undertook an independent review of its assumptions. Whilst the parties are not fully agreed on gross development value (GDV) or development costs, the principal area of disagreement relates to the Benchmark Land Value (BLV).
34. The appellant contends that this should be based on the Alternative Use Value (AUV) since there is an extant permission for a manor house on the appeal site. In certain circumstances this approach is endorsed within the Planning Practice Guidance's (PPG) advice on viability. The manor house was originally granted planning permission in 2014 and a certificate of Lawful Proposed Development was granted in 2019, confirming commencement of development to an amended scheme. There can therefore be no doubt that the alternative scheme complies with the development plan. However, although there is some limited evidence of market demand for the extant scheme, the only explanation as to why it has not been pursued is that the appellant is not a builder of manor houses. Nevertheless, as the scheme would appear to be more lucrative than the current proposal, and it has not come to fruition in the 9 years since originally approved, there must be significant uncertainty as to whether it would ever be built. This in turn throws considerable doubt over the applicability and robustness of the viability assessment based on the AUV.
35. The use of AUVs within viability assessments is not the recommended starting point set out in the PPG. It states that the BLV should be established first on the basis of the Existing Use Value (EUV) plus a premium for the landowner, referred to as EUV+. This would be a considerably lower figure (£2.6m) than the value of the land that would be associated with the manor house (£5.8m). The difference between these two figures significantly affects the overall viability of the scheme and therefore the ability of the current proposal to

contribute towards affordable housing. If the manor house was not implemented, based on the EUV+, there would be a larger surplus available which could contribute towards affordable housing.

36. The PPG on two separate occasions states that where viability assessment is used to inform decision making under no circumstances will the price paid for land be a relevant justification for failing to accord with the relevant policies in the plan. No information on the price of the land has been provided with this appeal, although it was suggested that it was necessary for the developer to offer at a level which reflected the site's value for development purposes as a manor house. This would appear to me to conflict with the PPG. It also suggests that if the manor house scheme would be more profitable it would be implemented. Alternatively, the price of the land, whether either agreed or already paid for, is much higher than the current scheme could support whilst being policy compliant.
37. The PPG advises that the weight to be given to a viability assessment is a matter for the decision maker. For the above reasons I consider that an assessment based on the AUV is not well founded or appropriate. This leads me to conclude that the proposal would not make an adequate contribution to the provision of affordable housing, contrary to Policy CP5 of the CSDMP.

Other Matters

38. The Local Lead Flood Authority (LLFA) objected to the proposal due to lack of information on drainage to demonstrate that the scheme would not adversely affect flood risk in the surrounding area. Further information was provided by way of a Drainage Strategy. However, this did not fully satisfy the LLFA that the proposal would not lead to increased flood risk both on and off the site. Areas to the east and south are presently at risk of surface water flooding. Concerns were raised about the condition of the existing watercourse along the eastern boundary of the site which would receive outfall from the site. The LLFA therefore wished to see additional features within the drainage scheme to reduce discharge, improve biodiversity and water quality, and to address both flood and drought conditions.
39. Nevertheless, it advised the Council that it considered this matter could be addressed through the imposition of an appropriate condition, in the event that the scheme was acceptable in all other respects. It is therefore not necessary for me to consider the matter further.
40. The proposal is within the zone of influence of the TBHSPA. However, notwithstanding the provision of a completed S106 agreement to contribute towards mitigation measures, there is no need for me to undertake an appropriate assessment, as the scheme is unacceptable for other reasons.

Conclusion

41. The government is seeking to significantly boost the supply of housing. This scheme would provide 20 new homes on previously developed land, including 3 affordable, shared ownership flats. Even though the Council is able to demonstrate a 5-year supply of housing land, these factors weigh in the scheme's favour and would provide modest social and economic benefits.

42. The scheme would not cause substantial harm to the openness to the Green Belt and would not be inappropriate development. This is a neutral factor in my assessment of the scheme.
43. On the other hand, I have concluded that the site is not a suitable location for housing. It would be at odds with the Council's spatial strategy and would leave future residents too far from local facilities and services with no genuine choice of travel mode. The scheme would also fail to make adequate provision for affordable housing. These factors significantly diminish the scheme's social and economic benefits. In addition, I have found the scheme to be harmful to the character and appearance of the area. These harms, both individually and collectively, carry very significant weight in the planning balance.
44. This leads me to conclude that the benefits of the proposal do not outweigh the conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, which indicate that a decision should be taken other than in accordance with the development plan. Consequently, the scheme is unacceptable and the appeal is dismissed.

S M Holden

INSPECTOR