



Appeal Decision

Site visit made on 8 January 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2024

Appeal Ref: APP/C3620/W/23/3319291

The Orchard, Horsham Road, Capel, Surrey RH5 5JH

- 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 Jamie Bird against the decision of Mole Valley District Council.
 - The application Ref Mo/2022/1724/PLA, dated 31 October 2022, was refused by notice dated 16 January 2023.
 - The development proposed is demolition of existing bungalow and garage and erection of 3 No. detached bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development proposed in the banner above is taken from the Council's decision notice and was used in the appeal form. It is more accurate than the description in the application form.
3. At my request the Council provided an explanation of what it considers to be its current 5-year housing land supply position. I have taken this into account in determining the appeal. The appellant provided no comments in response.

Main Issues

4. The main issues in this case are:
 - whether the site would be a suitable location for the proposal having regard to relevant development plan policies;
 - its effect on the character or appearance of the area;
 - its effect on the internal living conditions of future occupiers with regard to privacy; and
 - whether there would be a suitable means of vehicular access.

Reasons

Location

5. Mole Valley Core Strategy 2009 (CS) Policies CS1 and CS2 support new residential development within defined main built-up urban areas or in identified villages, which includes Capel. The site is not in or near any of these locations but in the countryside where the development plan restricts new residential development. In Mole Valley Local Plan 2000 (LP) saved Policies

ENV3 and RUD8 this includes replacement dwellings and in LP saved Policy MOV2 development must normally be, or could be made, compatible with transport infrastructure in the area.

6. Bus stops are a significant distance from the site and there is no continuous pavement along the site side of the main A24 Horsham Road. Useable pavement on the opposite side of this road is narrow, so pedestrians are close to the carriageway edge and passing vehicles. There is no street lighting in either direction and no crossing point. Albeit a 40 mph limit along this stretch and a snapshot at my visit, this is a busy, reasonably fast road with restricted warning of approaching vehicles in both directions due to an s-bend. While the pavement connects to Capel it is therefore not attractive to pedestrian use and is anyway too far away to walk safely without risk to all road users.
7. As a replacement of the mobile home on the site (the existing bungalow), one chalet bungalow would not change the status quo in these regards. However, two additional market chalet bungalows are a form of residential development in the countryside not supported by the development plan. While cyclists could travel to Capel this village would not be accessible for pedestrians. These occupants would therefore increase travel demands in this rural location and be mainly reliant on a car to meet most living needs. Even if this helped to enhance or maintain the vitality of Capel (or any other settlement) two extra households would have a limited effect in these respects.
8. I therefore find that the site would not be a suitable location for the proposal as a whole having regard to relevant development plan policies, being contrary to CS Policies CS1 and CS2 and to LP saved Policies ENV3, RUD8 and MOV2.

Character and appearance

9. The appeal site also includes a concrete sectional garage, a temporary lean-to storage structure and a mainly grass yard used to store cars. As such this development and use is different in nature to the short row of residential properties and gardens next to it on one side. While it has a largely low-key presence in its rural setting, removing this development, including the mobile home, would nonetheless improve the site visually. The chalet bungalows would have the same design and broadly be comparable in footprint to some of these residential properties. One would replace the mobile home in a similar position on the site.
10. However, they would be significantly larger in height to eaves and ridge and in overall scale and massing at first floor/roof level than most of these other properties, especially the single-storey mobile home. Much of the site would be covered by these closely spaced dwellings and a large area of hard surface. The front chalet bungalow (plot 1) would be set back from the road, at odds with the local building line; and face away from the road with a back garden 'in front' of it, out of keeping with the other properties which face the road with rear gardens behind. The two chalet bungalows at the rear (plots 2 and 3) would have a deeper, isolated backland position. All of the plots and garden sizes or shapes would be inconsistent with the properties closest to them.
11. Consequently, there would be a substantial consolidation of cramped built-form on the site with appreciable first floor bulk, including half hipped end elevations, an almost one and a half form overall and four large, pitched roof dormers. This would significantly reduce the mainly open, undeveloped essence

of the site and give an overly dominant, built-up impression in the streetscene, including an unduly hard edge next to the belt of trees on one side of the site. It would also be manifestly at odds with the layout and pattern of residential development next to it on the other side. This urban spread of housing would not relate well to the surrounding countryside context and unduly diminish the rural feel of the area. Aside from this innate harm the chalet bungalows would be observed in some views from the public footpath that runs parallel to the site beyond the belt of trees on rising land to the west, especially in winter months, and also from the pavement or passing vehicles.

12. I therefore find that the proposal would cause unacceptable demonstrable harm to the character and appearance of the area. Consequently, it is contrary to CS Policy CS14 and to LP saved Policies ENV22, ENV23 and ENV24. These include that development should respect and enhance the character of the area, be appropriate in scale, bulk, proportions and form and not result in over-development in terms of density and space around buildings.

Living conditions

13. The front elevations of two chalet bungalows (plots 1 and 2) would face each other not far apart with intervisibility of only about 8m. While annotated in the plans as 'study' and 'office' the two front ground floor rooms would be main habitable rooms (and could be used for any such purpose) as would be the two pairs of facing first floor front bedrooms. As a result, there would be insufficient separation to avoid direct, intrusive overlooking into these rooms. A tall wall or fence across the shallow front gardens would restrict outlook and natural light to the ground floor rooms and it would be unreasonable to rely on closing curtains or blinds and artificial light to avoid actual or perceived overlooking. Obscured glazing would unduly restrict outlook and natural light into all these rooms which have no other windows. These measures would not compensate or mitigate these fundamentally undesirable living conditions to begin with.
14. I therefore find that the proposal would not provide satisfactory internal living conditions for future occupiers of two chalet bungalows, having regard to privacy. As such it does not comply with LP saved Policy ENV22 which includes that development should provide a satisfactory environment for its occupiers.

Vehicular access

15. Vehicles can enter the site through gates from the A24 over a wide gravel verge, which has a long kerb flush with carriageway level and also serves some of the other residential properties. As I understand the submitted plans, though not within the red line of the site the appellant has a right of way across the verge. However, for what purpose or use, and who owns the verge, is not clear to me including whether it is part of the public highway.
16. Even if a right of way is available to allow vehicular access to the site, the development proposed is materially different to what the site is used for now and likely including the amount, frequency or type of traffic. I saw that there would be a satisfactory visibility splay to the south, in the direction of nearside on-coming traffic, assuming no obstruction of any of the verge in this direction which becomes grass. Similarly to the north assuming no obstruction of this visibility splay which crosses over land with, at my visit, low level planting. But neither splay is within the red line of the site or edged as blue land also owned or controlled by the appellant, so maintaining these splays could not be

controlled by a planning condition. In these circumstances, given the sustained flow of traffic along this s-bend there could be appreciably reduced visibility for drivers of vehicles exiting the site at the roadside edge. This would be a significant potential highway safety hazard to all road users. The Highway Authority also objected for this reason.

17. I am therefore not satisfied that there would be a suitable means of vehicular access to serve the proposal. It is as a result contrary to LP saved Policy MOV2 which includes that development should be compatible with transport infrastructure in the area, including appropriate provision for vehicular access.

Other Matters

18. I have been referred to two bungalows and a house in this row of properties¹, to commercial vehicles for a nearby landfill site using an access to the A24 and planning permission for demolition of a small bungalow replaced by a 'double storey house 10x the size' and one building replaced by '10 detached houses'². The reasons for that development or location of some of it are not explained so I cannot be certain it is directly comparable to this appeal, which I have considered on its individual planning merits. A 'pedestrian public footpath' in place 'for all the other properties and for members of the public' and a 'will' has also been mentioned but the relevance for planning purposes, if any, to the main issues in this appeal is not clear to me. The appellant did not object to the Council's suggested conditions but none of these would overcome the harm I have identified in the main issues above.

Planning Balance

19. The Council accepts that it cannot currently demonstrate a 5-year supply of deliverable housing sites, with a 2.9 year supply and a shortfall of 1,173 dwellings³. National Planning Policy Framework (the Framework) paragraph 11(d) is therefore engaged. The starting point is that planning permission should be granted.
20. Three energy efficient, 3-bedroom market chalet bungalows suitable in size for families on this windfall site would make effective use of it and a net gain of two would contribute to meeting the Council's housing requirement. They could be built relatively quickly and sustain employment during construction. These outcomes would align with objectives of the National Planning Policy Framework (Framework) to significantly boost the supply of homes, meet family living needs, support the economy and meet the challenge of climate change. These would be limited social, economic and environmental benefits from this small number of dwellings so have modest weight in support of the proposal.
21. However, two additional chalet bungalows would not be in, next to or visually or physically well-related to any settlement. There is no specific objective need for these dwellings to be on the site and increased travel demands and living needs would primarily be met by private cars. The chalet bungalows would not sufficiently reflect important aspects of the design of existing residential properties on or next to the site nor maintain a rural sense of place. Unjustified proliferation of this housing in the countryside would cause unacceptable harm

¹ Barnips, The Gables and Spring Lodge

² MO/2017/2058 and MO/2020/0347

³ Council's Five-Year Housing Land Supply Annual Review: 2022 to 2027, June 2022

the character and appearance of the area. Two chalet bungalows would have unsatisfactory living conditions for occupants with regard to privacy and an appropriate means of vehicular access has not been demonstrated.

22. This would undermine development plan objectives in these respects. Given the housing land supply position, reduced weight applies to these policies most important for determining the appeal. Nonetheless, they are still broadly consistent with objectives of the Framework to support or grow rural settlements to meet community needs and enhance or maintain the vitality of rural communities, including by use of local facilities. The proposal would not promote walking or public transport in a meaningful way or result in a pattern of development in the countryside that supported these aims or ensured the safety of pedestrian occupants of the dwellings or other road users. While transport opportunity varies between urban and rural areas, the dwellings would not be in a location that is or could be made sustainable by limiting the need to travel or offer a genuine choice of useable travel modes.
23. The Framework also seeks to conserve the natural environment, recognise the intrinsic character and beauty of the countryside and ensure that new homes on appropriate land in rural areas achieve well-designed places that are sympathetic to the prevailing local character to maintain a strong sense of place. In addition, to ensure a high standard of amenity for future users of development and ensure safe and suitable access for all road users without unacceptable impact on highway safety.
24. Consequently, notwithstanding the housing land supply position and the not insignificant scale of housing shortfall, I consider that the support given in the Framework to delivering housing is not at the expense of ensuring that residential development is appropriate and suitable in location and for those people who would occupy it, conserves the countryside and has a suitable means of vehicular access. In my view these individually important and cumulatively compelling adverse social and environmental impacts have substantial weight against the proposal.
25. The adverse impacts of granting planning permission would, therefore, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Accordingly the presumption in favour of sustainable development (the 'tilted balance') does not apply in this case.

Conclusion

26. The proposal conflicts with the development plan overall and with relevant provisions of the Framework. There are no other material considerations to indicate that the decision should be taken other than in accordance with the development plan⁴. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

⁴ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12