
Appeal Decision

Site visit made on 11 December 2023

by John Wilde C.Eng M.I.C.E.

an Inspector appointed by the Secretary of State

Decision date: 25 January 2024

Appeal Ref: APP/Z3635/W/23/3319062

Land at Manor Farm, Charlton Road, Shepperton TW17 0RJ

- 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 Mr Wayne Michaels against the decision of Spelthorne Borough Council.
 - The application Ref 22/00483/OUT, dated 31 March 2022, was refused by notice dated 31 October 2022.
 - The development proposed is a residential development.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development at Land at Manor Farm, Charlton Road, Shepperton TW17 0RJ in accordance with the terms of the application, Ref 22/00483/OUT, dated 31 March 2022, subject to the conditions contained within the attached schedule.

Procedural matters

2. The application was made in outline with access to be considered at this stage. Appearance, landscaping, layout and scale are reserved for future determination.
3. On 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework). In the interest of fairness both main parties were given the opportunity to comment upon whether or not the changes within the Framework impacted upon their case. Any comments received have therefore been taken into account in this decision.

Main Issues

4. The main issues are:-
 - a) Whether or not the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - b) The effect of the proposed development on:
 - i. the openness of the Green Belt.
 - ii. the character and appearance of the area,

- iii. locally listed buildings,
 - iv. the archaeological potential of the site.
- c) Whether or not the proposed development would provide:
- i. a satisfactory quantum of affordable housing,
 - ii. a satisfactory quantum of open space,
 - iii. a suitable housing mix,
- d) Whether any harm by reason of inappropriateness, and any other harm, would be outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

5. The appeal site lies within the Metropolitan Green Belt. The Framework informs at paragraph 154 that the construction of new buildings in the Green Belt is inappropriate. It does however go on to provide exceptions to this general rule.
6. One of these exceptions is the partial or complete development of previously developed land, whether redundant or in continuing use where firstly, the proposed development would not have a greater impact upon the openness of the Green Belt than the existing development or, secondly, would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area.
7. The appeal site is currently used as a commercial centre, with a number of businesses present on the site. There are numerous permanent buildings with materials ranging from corrugated iron, timber and brick and with several roof types, from pitched to sloping. Some of the existing buildings are two storey. There are also large areas of hardstanding. To my mind the site cannot be described as anything other than previously developed land, and I note that this conclusion was also reached by the Inspector who determined a previous appeal on the site (APP/Z3635/A /13/2210225).
8. Having concluded that the appeal site is previously developed land it is now necessary to decide firstly, if the proposed development would cause substantial harm to the openness of the Green Belt, and secondly, if the proposed development would meet an identified affordable housing need.

Openness

9. Whether Openness is impacted upon depends on a number of factors, including the scale and spatial/visual implications of the proposed development and its location.
10. The existing development on the appeal site already has a large impact on the openness of the Green Belt, with numerous one and two storey buildings and areas of hardstanding. The site is relatively flat and as a whole is not readily visible due to other nearby buildings and the walls, fences and hedges surrounding the site. The only viewpoint where the whole of the site can be seen is from the overbridge over the M3, and even this view is obscured by foliage.

11. The number of dwellings proposed is a factor in the openness of the proposed development compared to the existing. The application form states that the proposed development is for *residential development* although no quantum of dwellings is given. The Council's decision notice does however specify *up to 30* residential units and this number has seemingly been accepted by the appellant by virtue of his comments in his appendix A to his Statement of Case. If I were to allow the appeal then I could impose a condition to this effect.
12. It follows that no more than 30 dwellings could be built and the Council would have control of this as well as the reserved matters of scale, layout, appearance, and landscaping. Consequently if the Council consider that 30 units cannot be satisfactorily accommodated on the site then a lesser number could be approved. In light of this, and taking into account the quantum of development already in existence on the site, I conclude that the proposed scheme would not have a greater impact on openness than the existing development on the site.

Affordable housing need

13. The application form indicates that the development would be for market housing, the appropriate box for affordable housing not having been ticked. However, my attention has been drawn to a signed Unilateral Undertaking dated 26 August 2023. Schedule 1 of this document makes clear that an affordable housing scheme will be submitted to the Council prior to the commencement of development and that the number of affordable dwellings will be in accordance with the affordable housing requirement. I conclude therefore that the proposed development would meet an affordable housing need.

Conclusion on the Green Belt issue

14. The proposed development would not have a greater impact upon the openness of the Green Belt and affordable housing would be provided in line with policy. It follows that in accordance with paragraph 154 (g) of the Framework, the proposed development would not be inappropriate development in the Green Belt.

Character and appearance

15. The proposal would result in a residential development located at the edge of the village of Charlton. There are already a number of dwellings in the immediate area including detached and semi-detached dwellings opposite the site and further dwellings to the north. I have already found that the Council would have control of the layout, scale, landscaping, and appearance of the future scheme, and note that the existing development on the site is unkempt and piecemeal. I therefore conclude that the proposed development would not have a harmful impact upon the character or appearance of the area.

Locally listed buildings

16. The Council state that the appeal site includes two locally listed buildings, although the Heritage Statement of Case prepared on behalf of the appellant by the Pegasus Group (HSC) makes the point that one of these buildings collapsed between 2003 and 2008. The remaining locally listed building is the barns/stables.

17. Policy EN5 of the Spelthorne Core Strategy and Policies Development Plan Document (2009) (CS) encourages the retention of buildings of local architectural or historic interest and seeks to ensure that their character and setting is preserved in development proposals.
18. Paragraph 208 of the Framework states that the effect of an application on the significance of a non-designated asset should be taken into account in determining the application. It goes on to state that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this case the locally listed heritage asset would be demolished.
19. However, I note that the HSC states that the existing barn/stables architectural and artistic value have been diminished through the modern alterations and extensions and the ceased functional relationship with Manor House Farm and other buildings within the former farmstead
20. Furthermore, I note that the barn/stables were due to be demolished in the previous appeal relating to the site. On that occasion the application was not in outline and the replacement buildings were considered by the Inspector at that time as being satisfactory. Whilst the current application is in outline, the appearance, layout, and scale are reserved matters and therefore the Council have control over the nature, appearance and scale of the buildings that would replace the existing locally listed ones. It follows that a building could be built that reflected the barn/stables in its scale and appearance.
21. Overall therefore, on balance, I do not consider that the loss of the barn/stables would be of such significance as to merit dismissing the appeal. Conflict with policy EN5 does not therefore occur.

Archaeological potential

22. The Council's reason for refusal relating to archaeology referred to the appellant not demonstrating that they had considered the impacts of the proposed development on the archaeological potential of the site by not submitting a desk based assessment.
23. I have now been supplied with such a document. The document states that the potential for archaeological potential from a range of periods is considered low. It concludes that further investigations would not be proportionate. I have been supplied with no evidence to the contrary and therefore conclude that no conflict exists with policy BE26 of the CS. This policy requires that outside the defined areas of high archaeologic potential, the Council will require an agreed scheme of archaeological assessment or evaluation appropriate for the site concerned.

Affordable Housing

24. I have already concluded on the matter of affordable housing in my reasoning relating to Green Belt and openness.

Open space and housing mix

25. The application was in outline, with layout, scale, landscaping and appearance reserved for future determination. Therefore such things as the quantum of

open space and the mix of housing types can be controlled by the Council at reserved matters stage.

Other matters

26. The highway authority has concluded that the proposed development would produce 4 to 5 additional vehicular trips per hour during morning and evening peak times, and that this would constitute a negligible change in respect of highway capacity and safety. There would also be a significant reduction in HGV trips compared to the current situation. I also note that the site access is on the outside of a bend, giving suitable visibility, and that the highway authority would require a safety audit to be carried out prior to development. In the absence of any significant evidence to the contrary, I therefore conclude that the proposed development would comply with policy CC2 of the CS. This indicates, amongst other things, that traffic generating development will only be permitted where it can be made compatible with the transport infrastructure in the area.
27. The appeal site lies within a Flood Zone 1, the area deemed to have the lowest risk of flooding. In light of this the Council has concluded that there is no objection to the proposed development on the grounds of flood risk, and in the absence of any significant evidence to the contrary I concur with this view. I also note that the Lead Local Flood Authority were consulted and raised no objection, subject to suitable conditions being imposed, as the proposed surface water drainage strategy complies with the requirements of the Government's technical standards. The proposal therefore complies with policy LO1 of the CS. This indicates that the Council will seek to reduce flood risk and its adverse effects on people and property by a range of measures, including requiring all developments of one or more dwellings to have appropriate sustainable drainage schemes.

Planning balance

28. I have found that the proposed development would not be inappropriate development in the Green Belt and would not harm the openness of the Green Belt or the character or appearance of the area. Furthermore, I have found that the proposed development would provide a suitable quantum of affordable housing and that the appellant has submitted sufficient detail relating to the archaeological potential of the site to comply with the development plan. Open space provision and the mix of housing are matters for determination at reserved matters stage. Whilst the development would result in the loss of one locally listed building, I nonetheless consider that the proposed development complies with the development plan overall.

Conditions

29. The conditions that I have imposed were suggested by the Council and further suggestions were made by the appellant. Where necessary I have amended the suggested conditions and/or used PINs standard ones.
30. In the interest of the appearance of the final scheme I have imposed conditions requiring further details of the external surfaces of the proposed dwellings, details of soft and hard landscaping and details of enclosure. To protect the safety of future residents I have imposed conditions requiring mitigation a site

investigation is to identify any groundwater contamination and remediation measures should any be discovered.

31. To prevent future flooding in connection with the scheme I have imposed conditions relating to the design and implementation of a surface water drainage scheme. To ensure highway safety I have imposed a condition requiring that the areas for the parking and turning of vehicles are in place prior to occupation of the dwellings. As the proposed development is in the Green Belt, I have imposed a condition restricting future extensions and outbuildings. Finally, for certainty, I have imposed a condition restricting the development to a maximum of 30 dwellings and a further condition outlining the relevant submitted drawings.
32. I have not imposed conditions suggested by the Council in relation to energy requirements and EV charging as these are covered by other legislation.

Conclusion

33. In light of the above, and having taken into account all other matters raised, I conclude that the appeal should be allowed.

John Wilde

INSPECTOR

Schedule of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Before any work on the development hereby allowed is first commenced detailed drawings shall be submitted to and approved by the local planning authority to show (i) appearance, (ii) landscaping, (iii) scale, (iv) layout, (v) Access.
- 5) The development hereby permitted shall be carried out in accordance with the following submitted plans and drawings: Existing site plan 211103 L 002, Constraints plan 211103 SK1.1, Concept plan 211103 SK1.3, Land use plan 211103 L004, Sketch elevational plan 211103 SK2.0.
- 6) No development above damp-proof course level shall take place until details of the materials to be used for the external surfaces of the buildings and other external surfaces of the parking areas are submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed in accordance with the approved materials and detailing.
- 7) No development shall take place until:-
 - (i) A site investigation has been carried out to fully characterise the nature and extent of any land and groundwater contamination and its implications. The site investigation shall not be commenced until the extent and methodology of the site investigation have been agreed in writing with the Local Planning Authority.
 - (ii) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the Local Planning Authority prior to the commencement of remediation. The method statement shall include an implementation timetable and monitoring proposals, and a remediation verification methodology. The site shall be remediated in accordance with the approved method statement, with no deviation from the statement without the express written agreement of the Local Planning Authority.
- 8) Prior to the first use or occupation of the development, and on completion of the agreed contamination remediation works, a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and agreed in writing by the Local Planning Authority.
- 9) Details of a scheme of both soft and hard landscaping works shall be submitted to and approved in writing by the Local Planning Authority

prior to first occupation of any part of the development hereby approved. The approved scheme of tree and shrub planting shall be carried out prior to the first occupation of the buildings. The planting so provided shall be maintained as approved for a period of 5 years, such maintenance to include the replacement in the current or next planting season whichever is the sooner, of any trees or shrubs that may die, are removed or become seriously damaged or diseased, with others of similar size and species, unless the Local Planning Authority gives written permission to any variation.

- 10) Prior to the occupation of the development, details of a scheme of the means of enclosure shall be submitted to and approved in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details and maintained as approved.
- 11) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- 12) Prior to the commencement of any construction works in relation to any dwelling hereby approved, details of the design of a surface water drainage scheme shall have been submitted to and approved in writing by the planning authority. The design must satisfy the SuDS Hierarchy and be compliant with the national NonStatutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The required drainage details shall include:
 - a) Evidence that the proposed final solution will effectively manage the 1 in 30 (+35% allowance for climate change) & 1 in 100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development. Associated discharge rates and storage volumes shall be provided using a maximum discharge rate equivalent to the pre-development Greenfield run-off
 - b) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.). Confirmation is required of a 1m unsaturated zone from the base of any proposed soakaway to the seasonal high groundwater level and confirmation of half-drain times.
 - c) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected from increased flood risk. d) Details of drainage management responsibilities and maintenance regimes for the drainage system. e) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.

- 13) Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the surface water drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls), and confirm any defects have been rectified.
- 14) The wildlife mitigation and ecological enhancement measures shall be carried out strictly in accordance with the recommendations.
- 15) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any order revoking and re-enacting that Order), no extensions or outbuildings shall be erected without the prior planning permission of the Local Planning Authority.
- 16) The number of residential units in the allowed development shall not exceed 30.