



Appeal Decision

Site visit made on 24 January 2024

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2024

Appeal Ref: APP/Y3615/W/22/3311580

Land adjacent to The Chase, Guildford, Surrey, GU2 7UH

- 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 outline planning permission.
 - The appeal is made by St John's Close Developments Ltd against Guildford Borough Council.
 - The application Ref 22/P/01630, is dated 20 September 2022.
 - The development proposed is student accommodation.
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Decision

1. The appeal is dismissed and outline planning permission for student accommodation is refused.

Preliminary Matters

2. In the interests of clarity I have taken the above address from the Appeal Form, as on the application form the site was identified solely by grid reference.
3. This is an outline application with all matters reserved for later consideration. However, the application site shows only one place where access can be obtained, and plans have been submitted indicating a detailed footprint of a building on the land, as well as cross-sections giving its precise height and width. Furthermore, on the application form it states at a number of places that it is to provide accommodation for 30 students. Mindful of the matters reserved, this information cannot be treated as confirming how the scheme will definitely be developed. However, it must be showing the appellant's intent to some degree and the manner in which it proposes to respond to various parameters, otherwise there is no reason for it to be submitted. I am therefore treating it as illustrative material, but nonetheless informative.
4. Although it gives the incorrect name, I have no reason to assume the statement purporting to be from the Council was not in fact written by or on behalf of Guildford Borough Council.
5. An application for costs has been made by the appellant against the Council, and that is the subject of a separate decision.

Main Issues

6. After the appeal was lodged the Council confirmed that if it had been in a position to determine the case still it would have been refused for 9 reasons. Having regard to these, the main issues in this case are

- a) the effect on the character and appearance of the area, and on the significance of the Grade II* listed Cathedral Church of The Holy Spirit;
- b) whether the loss of open space would conflict with policy;
- c) the impact on living conditions of neighbours and future residents;
- d) whether it would harm highway safety;
- e) the impacts on drainage, ecology and the environment and
- f) whether it would have a likely significant effect, when considered alone or in combination with other plans and projects, on the Thames Basin Heaths Special Protection Area (the SPA).

Reasons

Background

7. A proposal for outline planning permission is used to gain an understanding as to whether the nature of a development is acceptable, and, even with all matters being reserved, if granted it constitutes the planning permission for the development described. The Council has acknowledged that, in principle, windfall developments for student accommodation are acceptable within the urban area. However, that does not mean that outline planning permission should be granted for such schemes anywhere in that urban area, as even with all matters reserved it can be clear that some locations are unsuited for such development.

Character and appearance

8. The appeal site is on the south side of a large roundabout, sitting between The Chase, which runs south from the roundabout, and Egerton Road that goes off westwards. To the south is a garage block and one of the houses on St Johns Close. The site itself comprises part of a grass verge along the carriageway edge and some unkempt woodland, and this woodland, even in winter when I visited, more or less screens the houses and garages behind.
9. The roundabout as a whole is surrounded by relatively open grassland and planting. To the east is the long approach to the Cathedral, to the north-east, are trees and lawns at the entrance to the University campus, while the verges around the A3 junction are to the north-west. Some of these areas are better maintained than others, or provide a higher quality of planting. However, overall they give the roundabout a pleasing, open landscaped context as it serves as one of the gateways into the town. Although described by the appellant as wasteland, the appeal site contributes positively to this, given its maturity and the way it conceals the buildings beyond.
10. In line with the illustrative details supplied, although its scale and layout are not established, it is clear that to house somewhere in the region of 30 students the building would need to be a relatively sizeable block. Furthermore, to avoid the various constraints (discussed below), it appears that only a small part of the site can be developed, and this would, in turn, mean the block would extend relatively close to the carriageway on The Chase, and it may well need to be taller. The cross-section suggests the proposal would be about 9m high, albeit set some 4m below the level of the roundabout. It is also reasonable to assume that much of the planting now on site would

have to be removed to facilitate the works, and while there may be replanting, given the presence of the building and the need for providing outlook, it is unlikely to have the same visual impact or to screen the new block effectively.

11. Taking these factors together, it is likely that the nature of the development means it would constitute a notable encroachment of built form into the roundabout's otherwise landscaped context, thereby unduly eroding the unity and cohesiveness it currently displays. Moreover, it would also be a free-standing block that would be unrelated to any surrounding buildings. These factors together would mean it would be a pronounced and discordant scheme that related poorly to both the open landscaped setting of the roundabout and the built form in the vicinity. Accordingly, a development of this nature on this site would detract unacceptably from the character and appearance of the locality.
12. In coming to this view I accept that the precise details of the scheme are not now before me but would be forthcoming as Reserved Matters. However, mindful of the parameters that have been offered by the appellant in the submissions, I am not satisfied that these details would overcome my concerns. I recognise too that there are numerous student halls within a relatively short distance of the site. However, I have no reason to consider they stand as isolated buildings in comparable prominent landscaped contexts. Whilst it was said the building could be screened, given its indicative height and the site depth I am not satisfied that will, in fact, be practicable.
13. Turning to the effect on the listed Cathedral Church of The Holy Spirit, section 66 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* requires special regard to be given to the desirability of preserving the settings of listed buildings when considering planning applications. Insofar as is relevant to this appeal the significance of this building is partly architectural and partly aesthetic. It is a fine and bold example of a mid-20th Century interpretation of ecclesiastical design, possessing a balanced form and arrangement, with high quality detailing, that serve to reflect its role as a spiritual focus for the town and the wider diocese. The setting makes a positive contribution to this significance, as its hilltop location with open land around highlights its prominence. This is especially so at the western end of the building, where there is a long straight access road (the western access) running up the hill through a wide grassed area that is focussed on the western end of the Cathedral and terminates at the turning area in front of the building's West Door. This creates a ceremonial approach that raises anticipation when moving up towards the Cathedral and emphasises its role and importance as one of the spiritual centres of the area.
14. The Cathedral's western access and its grassed areas to either side start on the other side of The Chase to the appeal site. As a result, when approaching from the west along Egerton Road especially, the development would be visible in the foreground with the Cathedral beyond. However, to my mind the area around the roundabout is distinct and separate from the western access. Whilst the latter is very much part of the approach to the Cathedral and contributes to an experience of that building, the roundabout and its associated roads and verges are clearly part of the highway infrastructure associated with the wider urban context within which the listed building sits. Consequently, even on the relatively direct view from Egerton Road, I consider the appeal scheme would not affect the ability to appreciate the Cathedral's significance.

15. In assessing this impact, reference has been made to protected views in a supplementary planning document, but this document has not been submitted.
16. Policy 20 in the *Guildford Borough Local Plan Development Management Policies* (DMP) was referred to by the Council, but I have not been told the site is in, or adjacent to, a conservation area.
17. Accordingly, I conclude the development would not harm the significance of the Grade II* listed Cathedral Church of The Holy Spirit by reason of its effect on the setting of that building, and so would not conflict with DMP Policy D18, which seeks to avoid harm to the significance of designated heritage assets.
18. However, I also conclude that development of the broad nature outlined in the appeal submissions would be a prominent and discordant feature that related poorly to the landscaped context of the roundabout and the built form around, and so conflicted with Policies D1 and ID4 in the *Guildford borough Local Plan: strategy and sites* (the Local Plan), DMP Policies D4 and D8, and the *National Planning Policy Framework* (the Framework), which together seek high quality design that protects open space and the visual amenity of the area and contributes to and integrates with the local distinctiveness of the surroundings.

Designated Open Space

19. Local Plan Policy ID4 says

Open space (encompassing all open space within urban areas, land designated as Open Space on the Policies Map and all land and water that provides opportunities for recreation and sport as identified in the most recent Open Space, Sport and Recreation Assessment) will be protected from development in accordance with [the Framework].'

The Framework defines open space as open space of public value '*which offer important opportunities for sport and recreation and can act as visual amenity*'. Under the above issue I have discussed how this policy could be applicable in relation to protecting open land for reasons of visual amenity. However, under this issue I shall address its retention for sport and recreation.

20. The verge along the south side of the roundabout is designated as open space in the development plan, but this designation does not appear to extend into the small woodland behind. Local residents said this area as a whole was used for recreational purposes. However, even when I visited in January, the woodland was so overgrown it was difficult to access, while the verge was unfenced and alongside busy roads and so not conducive to relaxation. The worn unsurfaced footpath routes across the grass showed people often walked over the verge, but given its character and nature I anticipate this was more to get from A to B rather than for recreation. Whilst the site might have a value for sport and recreation, on the evidence before me I consider it to be very low.
21. A notable proportion of the application site falls in the designated open space, but the plan submitted by the appellant shows how its proposed accommodation block could fit into the remaining area. Although the regrading works may encroach into the open space this is not certain, but in any event those works would maintain any current open space function the land provides. I have no record as to whether any of the remaining area is identified in the

most recent Open Space, Sport and Recreation Assessment. Consequently, I am not in a position to find there is a conflict with the aims and intentions of that document.

22. However, the supporting text to Local Plan Policy ID4 makes it clear the policy seeks to protect all open space in urban areas, whether or not it is identified in the development plan or the Open Space, Sport and Recreation Assessment. Such an approach would protect open space irrespective of its value or role. Despite this, a policy conflict nonetheless exists concerning the loss of this site for sport and recreation.
23. Controls could be imposed to ensure this remained as student accommodation, and so did not need to contribute to open space delivery.
24. Accordingly, I conclude the loss of open space with the possibility of use for recreation and sport would result in a conflict with Local Plan Policy ID4.

Living conditions

25. Having regard to future occupiers, the internal layout, the outlook, the noise attenuation and the garden size are issues that would be addressed at Reserved Matters stage, and in considering this appeal, I have no basis to find they cannot be adequately resolved. There is no evidence to show the air quality at the site would not be acceptable.
26. Turning to the effect on neighbours, the site is away from the houses on St Johns Close, while the 2 closest dwellings stand at right angles to the main orientation of the appeal site so meaning any intervisibility would probably be at an angle. Accordingly, although the position of the building, the location of the windows and its height are not established at this stage, I consider there is opportunity under the Reserved Matters to ensure there would not be an unacceptable loss of privacy.
27. It was said that the woodland now on site screened the existing residents from traffic noise. However, no evidence supported this and, in any event, it would be substantially replaced by a building that would also act as a noise barrier.
28. The students would access and leave the site using the residential streets of St Johns Close and St Johns Road. New pedestrian routes were suggested by the appellant but they have not been defined and there is no mechanism before me to secure their delivery, especially as they could involve third party land. I have therefore afforded them limited weight. Furthermore, in its support of the lower level of on-site parking provision proposed, the appellant has said that walking would be the primary means of travel, given how close the development would be to the University.
29. This pedestrian traffic could give rise to issues of noise, and it is reasonable to expect such activity would occur later into the evening than is normally associated with other types of residential accommodation. I was told though that there was a high student population in Dennisville. As a result, I consider the additional activity associated with this scheme would not have a material effect on the living conditions of residents on St Johns Road.
30. However, St Johns Close is a small cul-de-sac of 4 properties, that I currently anticipate has little footfall in the late evening. I consider that the number of potential students, especially when weighed against the limited activity at

present, means the development would result in a level of noise and disturbance at less sociable hours that would detract unacceptably from the living conditions of the residents in that Close. If some of those houses are now used as student accommodation, I have nothing to show they would remain so into the future. While there would be a certain amount of activity on St Johns Close connected with the 20 or so garages there, this is less likely to be prevalent in the late evening.

31. Accordingly, whilst I conclude there is no basis to consider the scheme would not provide suitable living conditions for its future occupiers, I also conclude the increased activity and disturbance would detract unacceptably from the living conditions of the occupiers of houses on St Johns Close, in conflict with DMP Policies D4 and D5 and the Framework, which seek good standards of amenity for existing residents.

Highway works

32. There is the potential for the proposed building to be set sufficiently far back from the carriageway to mean it did not impede sight lines at the junction of The Chase with the roundabout.
33. Although the precise scale of the development is not known, the students it would serve would probably be attending the nearby University. Given these points, the amount of traffic connected with the scheme would not adversely affect the functioning or safety of the junctions of St Johns Road with either The Chase, or St Johns Close. Moreover, at this stage I have no basis to find that there would not be opportunity for sufficient parking.
34. It was said that the site was on land that '*could*' be part of a Sustainable Movement Corridor providing a better pedestrian and cyclist link facility through the urban area. However, it has not been shown when such a scheme is expected to come forward or the form it would take. Indeed an email from 2017 said the County Council then had no current proposals to use this land for road improvements, and there are no firm submissions to indicate the position has changed to a material extent since. In any event, the appellant has demonstrated that the appeal site retains a 5m strip by the carriageway and, although I am unaware as to the required land for a Sustainable Movement Corridor, that may well be sufficient. If the development is to include designated highway land I would expect the consent of the highways authority would be required before it could proceed.
35. Accordingly, it has not been shown this scheme would have prejudice the delivery of the Sustainable Movement Corridor or compromise highway safety, and so in this regard would not conflict with Local Plan Policy ID3, which concerns the delivery of sustainable transport for new developments, or the Framework.

Drainage, ecology and environment

36. The site is in Flood Zone 1 and so is not in an area of medium or high risk flooding. Although no details have been forthcoming about how surface water would be handled, no particular reason has been offered to question that it can be resolved, and I would expect it to be addressed at Reserved Matters stage when the details of the development are better known. I was told the site was close to a storm drain, but I have no grounds to consider harm would result.

37. The small wood could be expected to be used now to a limited extent by some wildlife as a habitat and for foraging. I have no clear evidence though to show its value or demonstrate that it is an important or irreplaceable habitat containing priority species. I therefore find its removal would not cause unacceptable ecological effects. Moreover, given this baseline there would appear to be the opportunity to deliver measures to secure appropriate Biodiversity Net Gain at the Reserved Matters stage.
38. Finally, reduced carbon emissions, sustainable construction and the like for a scheme this size cannot be assessed until matters such as the form, scale, design, and orientation of the building are known. I have no reason to consider they cannot be addressed under a Reserved Matters submission and so they do not offer a basis to resist this proposal.
39. Accordingly, I conclude it has not been shown that the scheme would have an adverse effect on drainage, ecology and environment, and so would not conflict with Local Plan Policy P4 or DMP Policy P11, which seek to deliver satisfactory drainage or with Policies P6 and P7 of the DMP, which, together, seek to safeguard ecology and deliver biodiversity in new developments.

Effect on the SPA

40. Having regard to the *Conservation of Habitats and Species Regulations 2017* (the Regulations), any proposals that may affect a designated habitat site should be considered with the aim of maintaining or restoring, at favourable conservation status, its natural habitats and species. This is reflected in the Framework.
41. Moreover, Regulation 70(3) of the Regulations states
- outline planning permission must not be granted unless the competent authority is satisfied (whether by reason of the conditions and limitations to which the outline planning permission is to be made subject, or otherwise) that no development likely to adversely affect the integrity of a European site ... could be carried out under the permission, whether before or after objecting to approval of any reserved matters.*

Consequently, even though an outline application it is not an issue that can be held over to the Reserved Matters stage.

42. The site is within 5km of the SPA, which is a designated habitat site. As an area of lowland heath, it supports an internationally important bird population, and I consider it offers irreplaceable habitats. I understand that it is a popular place to walk and exercise, yet such activities can result in a pressure that causes harm to habitat and birdlife through trampling, erosion, general plant destruction and so on. Therefore, by increasing the number of residents who may choose to use the SPA for recreation, the proposal could adversely impact on the SPA's ecological integrity through greater disturbance and damage.
43. The precise number of residents at the scheme is not known at this stage. However, if even only a few are proposed, the impact must be considered both alone and in combination with other plans and projects. Therefore, whilst the effect of these extra residents, by themselves, may be slight, when taken with other similar proposals around the SPA there could be a cumulative harm arising.

44. An appropriate assessment under the Regulations is therefore required. As a part of this, any avoidance or mitigation measures that may be necessary must be considered. However, whilst the appellant has stated it would be willing to enter into a legal obligation to make mitigation payments, no such mechanism is before me and so any benefit such payments may bring cannot be taken into account. I recognise the precise number of students to be accommodated, and hence the specific amount of money needed in mitigation, are not now known. However, such payments should nonetheless be secured at the outline stage, and a wording could be introduced into any legal agreement to allow for appropriate flexibility.
45. I therefore conclude that, when considered in combination with other plans and projects, the development would adversely affect the integrity of the SPA, and no mitigation is proposed to address this adverse effect. I therefore conclude the development would conflict with Local Plan Policy P5, the Regulations and the Framework, which seek to protect the SPA from adverse ecological effects on its integrity.

Other Matters

46. I do not question that the provision of specific student accommodation could free-up housing elsewhere for the non-student population. Noting the site's limited value for sport and recreation, in relation to the second main issue above I consider that this benefit would justify a decision otherwise than in accordance with Local Plan Policy ID4. However, the delivery of further student accommodation and any consequent effect it may have on access for others to the remaining housing stock, does not outweigh the other harms I have identified concerning the character and appearance of the area, living conditions or the effect on the SPA.

Conclusion

47. Accordingly, given the nature of this proposed development I have found it would cause harm to the character and appearance of the area and to living conditions, and would also be likely to affect adversely the integrity of the SPA, for which there is no mitigation before me. As a result, conflict with the development plan, the Regulations and the Framework would result, which is not outweighed by other considerations.
48. I acknowledge that the Council's putative reasons for refusal were received after the deadline initially given. However, had those reasons not been forthcoming and had I determined the case in their absence, I anticipate that the effect on the character and appearance, living conditions and the SPA are the areas of concern I would still have identified.
49. I therefore conclude that the appeal should be dismissed.

JP Sargent

INSPECTOR