



Appeal Decision

Site visit made on 18 June 2024

By Lewis Condé BSc, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2024

Appeal Ref: APP/Y3615/W/24/3338688

Orchard Cottage, Drovers Way, Ash Green, Guildford, Surrey GU12 6HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by C Baldwin against the decision of Guildford Borough Council.
 - The application Ref is 22/P01681.
 - The development proposed is the erection of two detached three-bedroom houses with associated amenity areas and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: a) whether the appeal site is an appropriate location for the proposed residential development, including with regard to its accessibility to facilities and services; b) the effect of the proposal on the Green Lane East Site of Nature Conservation Interest (SNCI); and c) the effect of the proposal on the Thames Basin Heaths Special Protection Area

Reasons

Location

3. The appeal site is part of the residential curtilage of Orchard Cottage and is located amongst a cluster of other dwellings situated on Drovers Way. It is located on the outskirts of Ash Green, within a rural setting. In planning policy terms it is within the countryside, as set out under the Guildford Borough Local Plan: Strategy and Sites 2015 – 2034 (adopted 2019) (the Guildford Borough LPSS).
4. Policy P3 of the Guildford Borough LPSS seeks to limit development in the countryside unless it meets various stated criteria, all of which are expected to be met. Pertinent to the appeal proposal is criteria a) of the policy, which sets out that development will be permitted where it requires a countryside location or where a rural location can be justified.
5. The proposed development would not be isolated due to its relationship with adjacent neighbouring residential development. It nonetheless remains that there is no robust evidence before me that a countryside location is required for the proposed two dwellings.
6. In seeking to justify the proposal's rural location, the appellant argues that the appeal site is sustainably located. However, from my observations, Ash Green does not host facilities or services that would sustain day to day living. Any

future residents of the development would therefore be, more than likely, dependent on journeys of significant distances to wider, more distant, settlements to meet typical daily requirements.

7. Whilst Ash Green hosts a bus stop, it is not particularly close to the appeal site and a large extent of the route to the bus stop is along rural roads that lack footpaths and lighting. Additionally, the bus stop has a rather limited timetable. As such, I do not consider the use of buses to provide an attractive or realistic option to future residents of the appeal dwellings. There is also a train station within Ash, albeit this is situated further again from the appeal site, whilst I have not been given specific details of the nature and level of services that operates from the station.
8. The appeal site's context is also generally not suitable to encourage walking or cycling as a means of transport. There are no pavements within the immediate vicinity of the appeal site, which is instead accessed along an unlit rural road that is predominantly bordered by limited grass verges, trees, and hedgerows. The absence of pavements and lighting may not deter all persons from walking or cycling. Nevertheless, I consider it would still be a hinderance that would deter most occupants of the proposed dwellings, especially during adverse weather or periods of darkness.
9. The use of sustainable transport modes will ultimately be down to an individual's own choice. While in rural areas, the potential for alternative means of transport is often limited. Nevertheless, in this case, I find the site's characteristics would not encourage future residents to use alternative modes of transport or provide genuine, usable, or practical alternative modes. Consequently, future occupiers of the proposed dwellings would be highly dependent on the use of the private car, which is the least sustainable means of transport.
10. The appellant has drawn my attention to residential developments that have previously been granted planning permission nearby, which are suggested as demonstrating that the appeal site is a suitable location for the proposal. I do not have full details of those schemes, however, from my observation on site there are clear contextual differences, in that the previous schemes were better related to the existing village of Ash Green. For example, both schemes were served by footpaths from the sites that linked onto wider footpath provision along White Lane and throughout much of Ash Green. The footpath provision, which in large parts also benefited from streetlighting, thereby provided more convenient and safe access through the village, including making the potential for use of bus services more convenient and likely.
11. Furthermore, there are additional contextual differences between the current appeal proposal and those previous developments that have been highlighted by the appellant. Notably, the previously approved schemes were for a considerably greater number of dwellings at a time when the Council was unable to demonstrate a five-year housing land supply. A significant proportion of the dwellings under the previous permissions were also affordable housing. As such, the planning policy context at the time, and the merits of those developments, would have been considerably different to the proposal before me.
12. The Framework seeks to significantly boost the supply of homes, including through the delivery of small sites, whilst it also promotes the use of previously

developed land. Nonetheless, this does not overcome the need for development to be suitably located, nor does it justify the rural location of the proposed development.

13. Overall, the appeal site is not an appropriate location for the proposed residential development having regard to the development plan policies and its accessibility to facilities and services. The proposed development would therefore conflict with Guildford Borough LPSS Policy P3. It would also conflict with the aims of the National Planning Policy Framework (the Framework) in respect of promoting development that limits the need to travel and offers a genuine choice of transport modes.

Green Lane East SNCI

14. The appeal site lies adjacent to the Green Lane East SNCI. I understand that the SNCI is deciduous woodland and has been designated due to it forming part of Wanborough and Normandy Woods, which is one of the best examples of ancient semi-natural woodland in Surrey.
15. Policy ID4 of the Guildford Borough LPSS, amongst other matters, sets out that permission will not be granted for proposals that are likely to materially harm the nature conservation interests of local sites, unless clear justification is provided that the need for development clearly outweighs the impact on biodiversity. Where this test is met, every effort must be made to reduce the harm to the relevant site through avoidance and mitigation measures.
16. The Council's second reason for refusal was on the basis that the original application was not supported by any ecological information, thus it had not been demonstrated that the proposal would not harm the SNCI, including any protected species that rely on this habitat.
17. Through the appeal the appellant has provided a Preliminary Ecological Appraisal (PEA) of the proposed development. The PEA considers the ecological value of the site and details relevant designated sites nearby, including the adjacent SNCI. It further outlines a series of recommendations to mitigate the potential effects of the development, whilst also indicating potential biodiversity enhancement opportunities.
18. These proposed mitigation measures predominantly relate to the construction phase of the development, for example, the use of a construction environmental management plan and limits to lighting, restrictions on when works should take place to trees, as well as a recommendation to undertake further survey work. However, there is a lack of detail before me as to how the future operational phase of the development may impact on the adjacent SNCI and whether any protected species may be affected. For example, through increased recreational pressures.
19. In the absence of detailed information as to the likely effect of the operational phase of the development, I am unable to satisfactorily conclude that the proposal would not cause harm to the SNCI. Nor can I determine that any harm could be appropriately mitigated via a planning condition(s) on the grant of any permission. Accordingly, the appeal scheme conflicts with Policies ID4 of the Guildford Borough LPSS and Policy P7 of the Guildford Borough Local Plan Development Management Policies (adopted 2023) (the Guildford Borough LPDMP). Together these policies, amongst other matters seek to conserve and

enhance biodiversity. Similarly, it would also conflict with the aims of the Framework in respect of seeking to conserve and enhance the natural environment.

Thames Basin Heaths Special Protection Area

20. The appeal site is located within 5kms of the Thames Basin Heath Special Protection Area (TBHSPA). The TBHSPA is an Internationally Protected Site due to it providing heathland habitat for rare species of birds, namely nightjar, Dartford warbler and woodlark. It is therefore subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations).
21. The proposed development through introducing additional residential development within the zone of influence of the TBHSPA, has the potential to result in increased recreational use of the site. In turn, this could lead to damage to the habitats and disturbance to protected species. Avoidance and mitigation measures are therefore required to ensure that the appeal scheme does not lead to an adverse effect on the integrity of the TBHSPA.
22. The appellant has submitted a Unilateral Undertaking (UU) which seeks to mitigate the likely effects of the development on the TBHSPA, including through the provision of financial contributions towards Suitable Alternative Natural Green Space (SANG) and Strategic Access Management and Monitoring (SAMM). The appropriateness of the UU, including the level of financial contributions it seeks to provide has been contested by the Council.
23. However, given that I am dismissing the appeal on other grounds it is not necessary for me to consider this matter further. It has therefore not been necessary for me to carry out an Appropriate Assessment as required by the Habitats Regulations.

Other Matters

24. The fact that the appeal site may be subject to less restrictive planning policies than other areas of the Borough is not a suitable reason to allow otherwise unacceptable development. Likewise, compliance with other development plan policies is to be expected of development proposals and therefore does not weigh in favour of the appeal scheme.
25. The appeal scheme would provide some socio-economic benefits through the construction and future occupation of the proposed dwellings, including potentially supporting the vitality and viability of services in nearby villages. However, given the scale of the proposal, such benefits would be limited and do not outweigh the above identified conflicts with the development plan.

Conclusion

26. The appeal scheme conflicts with the development plan as a whole and there are no other considerations, including the Framework's provisions, which outweigh this finding. Therefore, the appeal is dismissed.

Lewis Condé

INSPECTOR