



Appeal Decision

Site visit made on 27 August 2024

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 OCTOBER 2024

Appeal Ref: APP/Y3615/W/23/3328686

The Shed Factory, Portsmouth Road, Ripley GU23 6EW

- 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 Challenge Fencing Ltd against the decision of Guildford Borough Council.
 - The application Ref is 19/P/01126.
 - The development proposed is erection of 7 residential units, retention of commercial sales area in separate building for established garden shed business and associated development together with demolition of existing building and retention of some display sheds/outbuildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans¹ were provided by the appellant with their appeal statement. These made changes to the scheme including the footpath route within the site, position of refuse storage facilities and provided street scene plans. The changes were not substantial and were provided at the outset of the appeal. As such, the Council and other parties would have had opportunity to comment on them. This is also the case for the Preliminary Ecological Appraisal including a Preliminary Bat Roost Assessment (PEA) and the Commercial Viability Report. Therefore, parties would not be prejudice by my taking them into account in my reasoning.
3. On the evidence before me, the Climate Change, Energy and Sustainable Development Questionnaire, a document referred to as 'The Shed Factory – Carbon Summary' and various plans as listed in question 9a on the appeal form were not provided at the outset of the appeal. There were differences between these plans and those in appendix 5 and 6 in terms of the pedestrian routes. Other parties would not have had fair opportunity to comment on them and if I were to take these into account, they would be prejudice. Therefore, I have not considered these documents.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework),

¹ Appendix 5 and 6 of the appellants Full Statement

- The effect of the proposed development on the supply of employment land,
- Whether the proposed development makes appropriate provision for affordable housing.
- The effect of the proposed development on highway safety, with regard to bin storage,
- The effect of the proposed development on the character and appearance of the area,
- Whether the proposed development makes appropriate provision for sustainable design and construction practices; and
- The effect of the proposed development on biodiversity.

Reasons

Whether Inappropriate Development

5. The appeal site is in the Green Belt. The Framework outlines that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
6. One of the exceptions to inappropriate development in the Framework is limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
7. There is a large existing building on the site and much of the remainder of the area is covered in hardstanding. As such, the site is previously developed land. The proposal would remove a commercial building and redevelop much of the site.
8. The proposed dwellings would be taller than the existing building to be removed and spread across more of the site. Notwithstanding this and that the floor space would be increased, the proposed footprint would be reduced. The proposal would also break up the built form from the existing bulky single building, provide gaps allowing views between buildings and greatly reduce the areas of hardstanding and parking.
9. While the sheds on the site are not permanent features, they, along with other elements of storage, currently cover large parts of the outdoor areas. There is no indication that the level of storage at the time of my visit, including sheds along the prominent frontage of the site was untypical. There is also no compelling evidence before me that there are restrictions on the location, coverage or height of storage at the site. As such, although there would be some external storage and parking associated with the proposal, the removal of the commercial storage would improve the visual and spatial openness of the site.
10. Consequently, the proposal would not have a greater impact on the openness of the Green Belt than the existing development and would accord with the above exception. Whether or not the proposal would be limited infilling in a village, it would not be inappropriate development as set out in the Framework.

Employment Land

11. The appeal site is not within a defined Strategic Employment Site or Locally Significant Employment Site in the development plan. While indicating a more flexible approach outside of these areas, and whether new commercial space is or should be directed to more urban areas or not, Policy E3 of the LPSAS² seeks to resist the loss of employment space such as the appeal site.
12. The supporting text indicates that the aim of the policy is to protect employment floorspace to ensure there is sufficient supply to accommodate existing and future need. Redevelopment or change of use to housing use requires evidence of active and comprehensive marketing of the site for its current use for a continuous period of at least 12 months prior to submission of a planning application. Moreover, redevelopment or change of use to a non-employment use will only be acceptable where the land or premises are unsuitably located.
13. The proposal would retain a commercial element at the site. Even if the existing business has alternative premises to re-locate to, the policy seeks to ensure existing and future need is accommodated. Furthermore, the policy does not state it is seeking to ensure the existing user has alternative space or that the suitability of the site should only consider the existing user.
14. A Commercial Viability Report updated with the appeal submissions sets out potential issues resulting from continued commercial uses. This includes the access, slope of the site, condition of the building and its proximity to residential properties.
15. A demand for housing is not an indication that the site is not suited for employment use. Furthermore, it has not been shown that the existing or potential employment uses would result in highway safety harm with the existing access being retained and the proposal resulting in comparable traffic levels. While surrounded by residential properties, there is no clear evidence that this is currently, or would in the future, prevent the site being suitable for the range of uses Policy E3 related to. Therefore, it has not been shown that employment uses of the site would be unsuitable.
16. While the existing occupier may consider the site does not meet their needs for growth, in the absence of marketing evidence, it has not been demonstrated that there is a lack of demand for the site for employment uses.
17. Consequently, the proposed development would result in the unacceptable loss of employment land. It would be contrary to Policy E3 of the LPSAS where it seeks to protect employment sites and floorspace. It would also fail to accord with the Framework where it states significant weight should be placed on the need to support economic growth and productivity.

Affordable Housing

18. Policy H2 of the LPSAS States that in Designated Rural Areas, such as where the appeal site is located, a financial contribution in lieu of on-site provision of affordable housing will be sought on sites providing more than 5 dwellings. This is also reflected in Policy H2 of The Lovelace Neighbourhood Plan (NP) and the Framework.

² Guildford borough Local Plan: strategy and sites 2015 – 2034

19. While the appellant indicated they intended to submit a planning obligation, one has not been provided. It has not been shown that this case represents the exceptional circumstances where a negatively worded condition requiring a planning obligation to be entered into would be appropriate. Furthermore, Planning Policy Guidance states that positively-worded conditions requiring the payment of money should not be used. As such, there is no mechanism before me to secure the affordable housing contribution.
20. Therefore, the proposed development would not make appropriate provision for affordable housing. It would be contrary to H2 of the LPSAS, H2 of the NP and the Framework where they seek affordable housing contributions.

Highway Safety

21. At my site visit, which was only a snapshot in time, I observed that there was a steady flow of traffic in both directions. The Highways Authority did not object to the scheme. Nonetheless, the bin storage area would be set back from the road, further than shown at the time the application was determined and it has not been demonstrated that refuse vehicles could satisfactorily manoeuvre within the site. Given the distances involved and the number of bins proposed, this would result in refuse vehicles having to wait on the road for some time blocking the carriageway, including the cycle lane. Vehicles would have to wait behind the refuse vehicle or go around it, resulting in potentially dangerous overtaking manoeuvres and creating a greater chance of conflict between road users.
22. Although it has been suggested that alternative locations, nearer the access could be utilised for the bin storage area, no plans showing this have been provided. As there could be implications for the effect of a different location on the character and appearance of the area and the position of proposed landscaping, it would not be suitable to impose a condition seeking an alternative location.
23. Consequently, the proposed development would result in harm to highway safety with regard to the bin storage area. It would be contrary to Policy D6 of the LPDMP³ where it requires bin storage to be designed to meet practical needs and allow them to be collected efficiently.

Sustainable Design and Construction Practices

24. Policy D2 of the LPSAS states that proportionate and adequate information should be provided in relation to sustainable design and construction. Policies D14, D15 and D16 of the LPDMP set out various elements and standards connected to the principles in Policy D2. These seek to reduce greenhouse gas emissions as does the Climate Change, Sustainable Design, Construction and Energy SPD. This includes the requirement for a Climate Change, Energy and Sustainable Development questionnaire.
25. Details of SAP calculations were provided with the initial application and compliance reports for each of the proposed dwellings. However, in the absence of further energy information it has not been demonstrated that appropriate provision could be made to achieve the required standards for matters such as water, waste and heating. Given the level of uncertainty, imposing a condition to require these details would not be appropriate.

³ Guildford Borough Local Plan: Development Management Policies

26. Therefore, I cannot be sure that the proposal would make appropriate provision for sustainable design and construction practices. It would be contrary to Policy D2 of the LPSAS, Policies D14, D15 and D16 of the LPDMP and the Climate Change, Sustainable Design, Construction and Energy SPD.

Character and Appearance

27. The existing site is obviously commercial in appearance. With the storage and parking areas to the front and boundary treatments to other sides, the utilitarian building, is generally screened from the street and nearby properties. There are examples of scattered commercial buildings and uses in the area and as such the existing site has a neutral effect on the character and appearance of the area.
28. There is a variety in the scale, roof form and design of nearby residential properties. The proposed properties would draw on aspects of these. There are also no consistent plot sizes, layout or spacing between properties. As a result, while smaller than some, the proposed plots would not appear cramped or discordant in comparison.
29. The proposed properties would be set back from the road in the area where storage and parking currently take place. The existing access and initial part of the driveway are shown to be retained. The street scene plans show the rear dwellings being at a higher level than the frontage ones. However, they are set some distance back and would follow the slope of the site at present which rises from front to back. The evidence before me indicates that there would be sufficient space to appropriately accommodate these changes in levels without substantial retaining features.
30. While the proposed dwellings would be taller than some of those adjacent, they would not be significantly so. At present, due to the changes in land levels, the ridge levels generally increase as you move away from Portsmouth Road and the proposal would follow a similar pattern. Were the appeal to be allowed a condition could be added to provide further levels details.
31. The bin storage area has been revised. While at a higher level than the road, it would be set back from it and broken up into different sections. The bins would likely only be stored there before and after collection times and not be a permanent feature. Moreover, were the appeal to be allowed conditions could be imposed requiring the final design of the storage and further details of the planting shown around it. Therefore, while a relatively large area, it would not be an imposing or incongruous feature.
32. Consequently, the proposed development would not harm the character and appearance of the area. The proposal would accord with Policies D1 of the LPSAS and D4 of the LPDMP where they require developments to respond to the distinctive local character and be well designed, as well as the Framework where it requires schemes to be sympathetic to local character.

Biodiversity

33. There is limited vegetation at the site. While there are landscape features near, but outside the site, there is no indication that these would be harmed or removed. The PEA provided with the appeal found no protected species or habitats. There is no clear evidence to the contrary. Were the appeal to be

allowed conditions could be added regarding protection of features and provision of biodiversity enhancements.

34. As such, the proposed development would not harm biodiversity and would accord with Policy P6 of the LPDMP and the Framework where they seek to protect and minimise impacts on species and habitats.

Other Matters

35. The site is within the 400m to 5km of the Thames Basin Heaths Special Protection Area (SPA) zone. No planning obligation is provided to secure the payments indicated to be necessary to mitigate against any harm from the scheme. However, there is no need for me to undertake an appropriate assessment because the scheme is unacceptable for other reasons and would not take place. In any event, even if mitigation prevented harm to the SPA, this would be a neutral factor.
36. While the Council have a 5 year supply of housing land, this is not an upper limit. The proposal would contribute to housing supply and mix in the area and provide accessible units. It would align with the Framework where it seeks to significantly boost the supply of housing and where it states small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. However, given the scale of the scheme these benefits would be small.
37. The site is also in a reasonably accessible location near to services and facilities. There would be economic benefits from the build, though this would be short term and occupation of the units, as well as to biodiversity. The scheme would also utilise brownfield land. Due to the number of units proposed the benefits would be small.
38. That I have found the scheme to be acceptable for some main issues is a neutral factor, as is the lack of any other harm.
39. The time taken for the Council to determine the application does not affect my findings on the main issues. Although the scheme has been revised from the previous submission and changes made during this application and subsequent appeal, I have found the scheme before me would not be acceptable.

Conclusion

40. The proposed development conflicts with the development plan when considered as a whole, and the Framework, and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
41. Therefore, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR