



## Appeal Decision

Site visit made on 31 October 2024

**by R Lawrence BSc (Hons), PGDip (TP), MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 November 2024**

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**Appeal Ref: APP/Q3630/W/23/3335661**

**Sandelwood, Howards Lane, Addlestone KT15 1EX**

- 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 Mr D Curtis against the decision of Runnymede Borough Council.
  - The application Ref is RU.22/1329.
  - The development proposed is for two 3-bed houses (Chalet Bungalows).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development on the planning application form omits reference to the demolition of existing outbuildings on site. Notwithstanding this, it is clear from the submitted plans and accompanying information that the proposal includes the demolition of existing outbuildings and I have therefore considered the appeal on this basis.
3. An additional elevational plan has been submitted with the appeal, which includes detail on the volume of the existing outbuildings to be removed. This does not materially alter the proposal before me and the Council has had the opportunity to comment on the plan, within its submissions. Given these factors, I am satisfied that my accepting the plan is unlikely to give rise to any procedural unfairness and I have therefore had regard to the additional plan in my determination of the appeal.
4. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Comments were invited from the main parties on whether these have any relevance to the appeal. I have had regard to the comments received in my determination of the appeal.

### Main Issues

5. The main issues are:
  - whether the proposed development would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the 'Framework') and relevant development plan policies;
  - the effect of the proposal on the openness of the Green Belt;
  - the effect of the proposal on the integrity of the Thames Basin Heaths Special Protection Area (SPA);

- the effect of the proposed development on reptiles; and
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

## **Reasons**

### *Whether inappropriate development*

6. Development within the Green Belt is inappropriate with the exceptions of the types of development listed in paragraphs 154 and 155 of the Framework. The appellant contends that the development would be acceptable in the Green Belt due to the presence of existing outbuildings which would be demolished. On this basis, criterion d) and g) of paragraph 154 are potentially relevant. These refer to "the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces" and "the .. partial ... redevelopment of previously developed land ... which would - not have a greater impact on openness of the Green Belt than the existing development".
7. Policy EE17 of the Runnymede 2030 Local Plan (RLP) is the sole policy listed in the two reasons for refusal relating to the Green Belt. This policy is consistent with the Framework in that it allows for the limited infilling or the partial or complete redevelopment of previously developed land, subject to the impact on openness.
8. The appeal site comprises residential garden land associated with the existing dwelling. The site is located within a semi-rural setting and includes a number of residential outbuildings which the proposal seeks to replace with two 3-bedroom, chalet bungalows.
9. The volume of the proposed dwellings would significantly exceed that of the existing outbuildings on site. The height of the dwellings would also considerably exceed that of the existing outbuildings. The existing built form to be demolished, is made up of multiple modest buildings each with a low profile. In some cases, these buildings are partially open, further reducing their presence and scale. Consolidating and increasing the volume of development within two buildings would considerably alter the shape, form and scale of development on site.
10. The proposed chalet bungalows would feature large, pitched roofs, which would accommodate first floor accommodation. In comparison with the low profile shallow roofs on the existing outbuildings, this would represent substantial increases in the height and mass. Given these findings, the proposed buildings would appear materially larger than those which the proposal would replace. The proposal would therefore conflict with criterion d).
11. Exception g) requires an assessment of the impact on openness to determine whether or not the development would be inappropriate.

### *Openness*

12. A fundamental aim of Green Belt policy, as set out in paragraph 142 of the Framework, is to prevent urban sprawl by keeping land permanently open. Openness has a visual and spatial dimension.

13. The appeal site comprises a large enclosed residential garden, with a number of outbuildings within it. The site is set back from the more dense, built up residential development along Howards Lane, and the enclosure provided by neighbouring residential properties, as well as extensive vegetation and trees, result in a semi-rural character.
14. In spatial terms, there would be harm to the openness of the Green Belt resulting from the erection of two significant buildings within an existing (albeit large) residential garden. Their siting, close together relative to the size of the site, would significantly increase the built form within the site in contrast to the existing low-profile outbuildings which are more spread out and focused around the site boundaries.
15. The intensified residential use of the activity, with three generous gardens and properties, would likely result in associated increases in domestic paraphernalia and other structures. The additional boundary treatments and landscaping of a domestic appearance could also affect the openness of the site. These factors would contribute to an adverse impact upon spatial openness.
16. In visual terms, there would be some limited views available from neighbouring residential gardens. Public viewpoints from beyond the appeal site, are very limited. Existing vegetation and trees, both within and outside the appeal site, significantly limit inter visibility. Whilst there is a public footpath which runs adjacent to the appeal site, views through are glimpsed and restricted by the intervening vegetation including from the adjacent public footpath. Although the extent of views could alter seasonally, the limited views reduce the extent of harm in visual terms to openness. The proposed bungalows are positioned away from the site boundaries, although given the open nature of the appeal site this in itself would do little to mitigate its effect on visual openness. As such, there would be a small element of visual harm.
17. I therefore find that the proposal would fail to preserve openness. I find the harm to openness, whilst localised, to be significant. Thus, the proposal would conflict with Policy EE17 of the RLP. Furthermore, it would not meet the exception set out under criterion (g) of paragraph 154 of the Framework. It would therefore constitute inappropriate development in the Green Belt.

#### *Thames Basin Heaths SPA*

18. The site lies within a 5km buffer zone to the Thames Basin Heaths SPA. This European designated site provides habitat for important ground-nesting bird species including nightjars, woodlarks and Dartford warblers. It has been established that residential development within the exclusion zone would likely result in harm to the protected area through additional recreational disturbance. The Council's second reason for refusal sets out that the proposal would create a net gain of dwellings and in combination with other developments permitted in the area there would be a likely significant adverse effect on the integrity of the SPA.
19. The Council's Thames Basin Heaths SPA Supplementary Planning Document (SPD) April 2021 requires new residential development beyond a 400 m threshold, but within 5 km of the SPA boundary to make an appropriate contribution towards the provision of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM), to mitigate

the impacts of such development on the SPA. It is noted that developments will generally take up capacity at one of the Borough's strategic SANGs, subject to availability.

20. The appellant has not disputed the need for mitigation and has submitted a draft unilateral undertaking which aims to secure a SANG contribution of £4,517.50 (based on a contribution of £903.50 per occupant) and a SAMM contribution of £1,800 (based on a contribution of £360 per occupant). However, the agreement is in draft form, it is not signed or dated. There are further deficiencies with the UU including the absence of title deeds, and an incorrect SAMM contribution. As such, even if the UU was signed and dated, it could not be relied upon to secure the contributions, and further, the mitigation would not be sufficient.
21. The Council's SPD identifies a number of strategic SANGs with capacity to accommodate additional developments (at the time of production). There is no information before me as to which SANG the contributions from the appeal would go towards. Furthermore, there is no evidence that there is sufficient capacity for the development. Had I been minded to allow the appeal, and if the draft UU was otherwise acceptable, it would have been necessary to explore these matters further.
22. The absence of adequate mitigation is such that I cannot be satisfied that the proposal would avoid a significant adverse effect on the Thames Basin Heaths SPA. Therefore, the proposal would conflict with Policy EE10 of the RLP in its aims to avoid an adverse effect on the Thames Basin Heaths SPA. The failure to address the requirements of the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') weighs heavily against the appeal.

### *Reptiles*

23. The appeal is accompanied by a Preliminary Ecological Appraisal, this contains findings on a number of species, including reptiles. The appeal site contains areas of rough grassland together with debris and surrounding woodland and scrub, which the report acknowledges have potential habitat suitability for reptiles. No reptiles were found during the surveys; however, it is noted these took place over 2 years ago and as such these cannot be relied upon to provide up to date information. Although a landscape and ecological management plan is submitted, which proposes improved habitat and biodiversity creation, it is unclear to what extent this could mitigate against any harm to reptiles that may be present on site.
24. The appellant suggests the use of a condition to secure both a further reptile survey and details of mitigation. However, as established in paragraph 99 of Circular 6/2005<sup>1</sup>, it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before planning permission is granted. In the absence of up-to-date information on the presence or otherwise, of reptiles, together with detail as to population numbers and species data, it is not possible to fully assess the effects on reptiles, a legally protected species. Given this, I consider that a condition would not be reasonable or appropriate.

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<sup>1</sup> ODPM Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System 16 August 2005

25. The proposal therefore contains insufficient information, such to demonstrate that an adverse effect on reptiles, a protected species, would be avoided. The proposals therefore conflict with Local Plan policy EE9 and the aims of the Framework contained within paragraph 186, on preventing harm to biodiversity.

*Other considerations*

26. The proposed development would constitute inappropriate development in the Green Belt and would result in a loss of openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Very Special Circumstances will not exist unless the harm to the Green Belt and any other harm, is clearly outweighed by other considerations.
27. The appellant has referred to a significant need for housing, however, acknowledges that the Borough is currently delivering its identified housing need. Nonetheless, the proposal would make a modest contribution towards the government's target to significantly boost the supply of homes. Given this context, I attach modest weight to the benefit of providing two additional homes.
28. My attention has been drawn to the inclusion of part of the site within the Council's brownfield register. Brownfield registers provide information on sites a Local Authority considers appropriate for residential development. In this case, a significant portion of the appeal site falls outside of that identified on the register. As such, this carries very limited weight.
29. Comparisons are drawn with the bungalows and extensions to them on Howards Lane, however, whilst in relatively close proximity, these bungalows fall within the built-up area, and critically outside of the Green Belt. I am not therefore persuaded that it would be appropriate to replicate such development within the appeal site. This attracts negligible weight.
30. The proposal includes a new planting regime, biodiversity improvements and habitat creation. The development offers opportunities to restore or enhance biodiversity, and the submitted ecological reports identify a number of specific measures to assist with this aim. Whilst I note the Council's reservations regarding the potential to secure biodiversity and landscape improvements, I have also had regard to the conditions suggested by Surrey Wildlife Trust which include an Ecological Enhancement Plan. I am satisfied such a condition would meet the relevant tests. However, given my findings in respect of the fourth main issue, and the impact on reptiles, there is significant doubt as to whether a net gain in biodiversity would be achieved. Given this context, I attach limited weight to these other considerations.

**Green Belt Balance**

31. Taken together, there are other considerations in this case that weigh modestly in favour of the development. However, the proposal would be inappropriate development in the Green Belt, which is harmful by definition. There would also be significant harm to the openness of the Green Belt. Paragraph 153 of the Framework explains that any harm to the Green Belt attracts substantial weight.

32. In addition, I have identified an adverse effect on the Thames Basin Heaths SPA, this attracts substantial weight. In addition, significant weight is attached to the potential harm to reptiles, a legally protected species. Overall, the other considerations raised do not clearly outweigh the harm identified. Therefore, the very special circumstances necessary to justify development in the Green Belt do not exist.
33. As such, the proposal conflicts with RLP policies EE9, EE10 and EE17. Therefore, there is a conflict with the development plan as a whole. The proposal also conflicts with the policies in the Framework for the protection of the Green Belt as well as habitats and protected species.

### **Conclusion**

34. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

*R Lawrence*

INSPECTOR