



Appeal Decision

Site visit made on 3 March 2025

by D Wallis MRTPI, BSc (Hons), PGDip (Environmental Planning)

an Inspector appointed by the Secretary of State

Decision date: 12 March 2025

Appeal Ref: APP/C3620/W/24/3352317

Land to the West Side of Stane Street, Ockley, Dorking, Surrey, RH5 5TH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant [outline] planning permission.
- The appeal is made by Hawksmoor Homes against the decision of Mole Valley District Council.
- The application Ref is MO/2023/1976/PLA.
- The development proposed is Erection of 14 No. dwellings with associated access and landscaping.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 15 October 2024, during the course of the appeal, the Mole Valley District Council Local Plan 2020-2039 (the Local Plan) was adopted. This superseded the Mole Valley Local Plan 2000 and the Mole Valley Core Strategy 2009, against which the appeal proposal had originally been determined. The Council provided an updated list of policies considered relevant to the planning appeal and the appellant had the opportunity to respond accordingly. I have taken the updated policies and relevant responses into account in making my decision.
3. A signed and dated Unilateral Undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) was received by the Inspectorate on 13 December 2024. I shall return to this later in my decision.
4. One of the Council's reasons for refusal related to the lack of an Odour Assessment. As part of the appeal the appellant provided this assessment, and the Council subsequently confirmed in writing that this specific reason for refusal would no longer be contended. I have acknowledged this in my consideration of the main issues for the appeal as set out below.

Main Issues

5. The main issues for the appeal are the effects of the development upon:
 - the character and appearance of the landscape;
 - social and highways infrastructure;
 - designated heritage assets; and
 - protected species.

Reasons

Character and appearance of the landscape

6. The appeal site sits to the south of the village of Ockley, outside of the settlement boundary defined in the Local Plan and falling inside a designated area of great landscape value (AGLV). I note that the wider locality, including the appeal site, is being reviewed for potential inclusion in the Surrey Hills National Landscape (SHNL), though currently does not benefit from any statutory status.
7. The appeal site comprises a largely open field containing several mature trees. I observed that the eastern site boundary along Stane Street is formed with a low hedgerow, allowing clear views into and around the appeal site. The other boundaries are formed with mature trees, with ancient woodland featuring on the northwest perimeter and beyond.
8. The proposal is for 14 dwellings comprising a mix of smaller units to the northeast corner, with larger detached and semi-detached dwellings loosely scattered around the remainder of the appeal site. A mix of detached and integral garages would be constructed together with frontage parking, whilst an area of green and blue infrastructure would be provided adjacent to the eastern boundary.
9. In terms of appearance, the appeal site has a much greater affiliation with the undeveloped countryside rather than with the built-up areas of Ockley village. It has a manicured and maintained condition that provides a verdant and scenic sense of place on the approach into Ockley. A large part of the appeal site's local landscape contribution is due to the open views in and across it, with the mature trees clearly visible. This typifies the wider area, which is defined by longer countryside views and a traditional, verdant rural character.
10. This character and appearance would be largely removed through the proposed development. The large amount of urban form, whether tightly packed in the northeast corner or sprawling and substantial in scale towards the south and west, would be a significant visual intrusion in the countryside. Whilst the proposal seeks to retain important trees in and around the appeal site, these landscape features would become lost within a suburban development, negatively affecting the appreciation of the AGLV. Coupled with the proliferation of garaging, parking and other residential paraphernalia, the development as a whole would be incongruous in the locality, eroding landscape character and of detriment to the scenic beauty of the approach into Ockley.
11. I note arguments that the appeal site is on the periphery of the AGLV, does not fall inside the SHNL and that the proposals are landscape-led. Nonetheless, the landscape in this context has an intrinsic beauty that contributes to both the approach and the exit of Ockley, into a wider expanse of countryside. The low-density nature of the development would not remedy the incongruity of the proposal, as it would be highly visible from Stane Street and any remnants of existing landscape character would only be seen in a completely urban context. It would appear as landscaping of a residential area, rather than a natural setting.
12. There would be clear and obvious landscape harm through the development. On this basis, the proposal would have an adverse effect on the character and appearance of the landscape, including the AGLV. This would be contrary to

policies EN2, EN4 and EN8 of the Local Plan, that seek to ensure proposals protect the distinctive character and scenic beauty of the landscape.

Social and highways infrastructure

13. The Council identified a requirement for 6 affordable housing units to be secured through the development, whilst Surrey County Council requested a financial contribution to the sum of £56,000 towards bus service improvement initiatives.
14. The appellant provided a draft UU to the local authorities for comment during the appeal. The local authorities commented back that Surrey County Council was not named in the agreement, so any financial contributions were not properly directed to them. In addition, the local authorities highlighted that a number of the legal clauses relating to affordable dwellings and first homes were either unacceptable or missing altogether.
15. The appellant submitted a final signed and executed UU to the appeal, dated 13 December 2024. However, the appellant caveated that it had been impractical from a time and cost perspective to engage the Council in preparing a final legal agreement, thus some requested changes had not been enacted. The appellant nonetheless stated a desire to work with both of the Councils in order to fulfil the necessary obligations.
16. I have reviewed the UU and have concerns as to its drafting. Whilst there is an affordable housing tenure plan, the factual information about sizes of units falls outside of the UU in separate text and is therefore not wholly bound. The legal definitions typical of affordable housing provisions and first homes are errant, most notably the clauses that retain the units in perpetuity and that ensure the units are offered to meet a locally identified need.
17. Whilst the UU does covenant the developer to provide the financial contribution to the County Highways Authority, the list of definitions within the UU omits naming Surrey County Council as the receiving party. I acknowledge it might be obvious as to who the relevant authority is, but such loose drafting renders the UU unfit for purpose and casts doubt over the robustness of the UU as a whole.
18. I note the appellant's stated commitment to meet the requested obligations, but I am being asked to allow an appeal subject to this UU and none other. In the absence of restrictive clauses and proper binding definitions, the affordable housing would not be satisfactorily secured and therefore does not assist in increasing the supply of affordable units within the district. In the absence of certain naming provisions and conventions, the highways contribution would not be sufficiently legally secured.
19. For these reasons, the proposal would fail to mitigate its impact on social and highways infrastructure. This would be contrary to policies INF1 and H3 of the Local Plan that seek developer contributions proportionate to the level of development proposed.

Designated heritage assets

20. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation irrespective of the level of any potential harm.

21. A large proportion of the appeal site falls inside the Ockley Conservation Area, which extends southward to the junction of Stane Street with Cathill Street. The Conservation Area extends beyond the built environs of Ockley to include the verdant green spaces surrounding the village.
22. Within the Conservation Area, in close proximity to the appeal site are the properties of the Old School House to the north and The Old Rectory to the east, which are grade II listed buildings. Further nearby heritage assets include Ivy Cottage and Vine Cottage, though these are slightly further away from the immediate context of the appeal site. Elmers Farm is another grade II listed building, though this is distinctly physically separate from the appeal site. The principal buildings of The Old Rectory and The Old School House are larger and more prominent historical features in the Conservation Area, commensurate with their past status, and are landmarks on the southern extent of the village.
23. From my site visit, it was clear that the appeal site forms a significant part of the historic pattern of Ockley, serving as a long-standing expansive landscaped setting for the village. The views across the land contribute to the exposure and appreciation of the southern extent of Ockley, defining a sense of place. Within the main part of the settlement, I noted that the Conservation Area contains an eclectic mix of dwellings of varying scale, shape and architecture. Properties generally have a close association with the highway and demonstrate a relatively linear pattern of development.
24. The appeal proposal of 14 dwellings would see smaller units aggregated to the northeast of the appeal site, with dwellings getting progressively larger both within and outside of the Conservation Area boundary. The open space within the site would be orientated on a more east to west alignment, with dwellings, garages and gardens occupying a fair proportion of the land within the Conservation Area. A design approach has been taken to form zones of different density and architectural style across the development, laid out with depth away from the highway in a cul-de-sac formation.
25. In my view, the appeal development would completely remove the contribution the appeal site makes to the Conservation Area in terms of openness, green character and landscape setting. Any retained views would be obscured, and any features of importance lost within a layout that is highly suburban in character. Whilst the smaller dwellings to the northeast corner of the appeal scheme would be of a pattern more in keeping with the Conservation Area, the majority of the proposed units are of substantial size on large plots. They would be orientated around cul-de-sacs and turning heads in a layout that is insensitive to the historic character and layout of the Conservation Area.
26. I consider the loss of the open space from the Conservation Area would also negatively impact upon the verdant setting for both of the principal listed buildings, whilst the large dwellings proposed would actively compete for importance against these recognised historic landmarks on the southern edge of Ockley. Whilst Ivy Cottage and Vine Cottage are geographically further away, the whole character of the southern extent of the village would be altered by the proposal, thus diminishing the importance of these assets to the historic street scene. I consider the proposal would be indirectly harmful to the setting of these assets, as well as the direct impacts upon the Old Rectory and the Old School House.

27. I note that it is common ground between the main parties that less than substantial harm would occur to heritage assets, and I find no reason to disagree. The Council argues all named heritage assets would be highly impacted, whilst the appellant states only the Conservation Area and The Old Rectory would be impacted at the lower end of less than substantial harm.
28. In my view, the appeal site contributes significantly to the Conservation Area in its own right and therefore the harm must be at the higher end of less than substantial from that aspect alone. The harmful impacts on the settings of individual heritage assets only heightens the conflict and the weight to be given to the harm.
29. The appellant argues that public benefits would outweigh such harm¹. However, the position regarding housing shortfall has changed during the appeal with the adoption of the Local Plan, and the provision of affordable housing carries less weight now in light of my conclusions above regarding the UU. I do not agree that retaining glimpse views to the Conservation Area would be a benefit, given that the current open, attractive and unobstructed views would be lost. The other benefits listed would only attract moderate weight in my view given some are expected from development proposals to comply with Local Plan policies and any economic benefits would be modest to this rural community.
30. I conclude that less than substantial harm would occur, and this would not be outweighed by the public benefits accrued to the proposal. This would not only conflict with the National Planning Policy Framework (the Framework) but also policy EN6 of the Local Plan, that seeks to protect designated heritage assets and their settings.

Protected species

31. A preliminary ecological appraisal was undertaken by the appellant, determining that the appeal site and its surroundings present potential habitat for numerous protected species, including great crested newts (GCN) and hazel dormouse. It is common ground that a proportion of the protected species would remain protected if suitably worded planning conditions were imposed on any permission requiring sensitive working measures to be followed. However, the Council maintain concern regarding dormice and GCN, stating a district licence and further detailed surveys should be provided to ensure no adverse effects.
32. In respect of GCN, the appellant has expressed that to acquire a district licence in advance of obtaining planning permission would be a significant cost with associated risk. If the appeal were to succeed, then the appellant would seek a technical resolution. Notwithstanding the appellant's arguments, in the absence of a district licence, I cannot be assured that GCN would be successfully mitigated for. Deferring the matter for conditional approval would not be satisfactory given the sensitive nature of the species, the reported abundance of suitable habitat nearby and the extensive amount of development proposed. In the absence of evidence to the contrary, and taking a precautionary approach, I conclude that there would likely be an adverse effect on GCN arising from the appeal.
33. I note an interim dormouse monitoring report dated November 2024 was submitted to the appeal, stating there is no evidence of dormice on the appeal site. Whilst the Council has not commented on the document or given clearance to its findings, I

¹ Paragraph 7.30 of the Heritage Statement prepared by Heritage Potential 2023

am content that enough survey work has been undertaken. Pending a further full investigation, I consider it unlikely that the proposal would give rise to an adverse effect on dormice if the recommendations in that monitoring report were followed.

34. An area of ancient woodland and semi-natural woodland habitat of principal importance partially falls in the northwest of the appeal site. The plans accompanying the appeal stipulate a 15-metre buffer zone to the ancient woodland, keeping construction and residential activity away from this highly sensitive area. The appellant has incorporated a clause in the submitted UU to secure the buffer zone in response to Council concerns.
35. Earlier in this decision, I have found deficiencies within the UU that render it unsuitable to provide all of the necessary obligations. Therefore, there is no security for the buffer within that flawed agreement. Nonetheless, if I were minded allowing the appeal, a planning condition could ensure the provision of the buffer zone, requiring development to be carried out in accordance with the relevant plans. This would, at least, ensure some protection to the ancient woodland and mitigate any potential impact thereupon.
36. Whilst I have found the proposal may be acceptable regarding effects on dormice and upon ancient woodland, I cannot rule out adverse effects upon GCN. For this reason, I conclude that there would be adverse effects arising from the development upon protected species. This would be contrary to policy EN9 of the Local Plan, that seeks to protect sensitive habitats and species.

Other Matters

37. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that my determination must be in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out above, the development proposed is contrary to the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
38. The Council, having adopted the new Local Plan, state that the requirement to demonstrate a robust five-year housing land supply is suspended as per the Framework. Furthermore, the Council are seeking a revision to the current Housing Delivery Test (HDT) figure because of its relationship to an outdated local housing need of 460 dwellings per annum, not the 336 per annum written into the newly adopted Local Plan. For these reasons the Council say the tilted balance under paragraph 11(d)(ii) of the Framework is not engaged.
39. The appellant recognises the adoption of the Local Plan represents a material change in circumstances but note the requirement for the Local Plan to be reviewed within 3 years, primarily because of housing issues². Consequently, the appellant relies on the 460 dwelling per annum figure as being more realistic.
40. As it stands, the Council have a recently adopted plan setting out a path to deliver housing growth. Within that adopted plan is a housing figure of 336 dwellings per annum that currently guides the way forward for delivering growth. I am not going to make any assumptions regarding the outcomes of the HDT process and nor am

² Policy D2 of the Local Plan

I going to comment on what may happen within the Local Plan review in 3 years' time. I base my decision upon the most up-to-date evidence available to me at this time. In this instance, I do not find the tilted balance to be applicable for this appeal. For this reason, appeal decisions referred to me stating the argument of the former planning policy documents being out-of-date are not relevant.

41. Had I found otherwise, the heritage harm I identify above would have resulted in a direct conflict with the Framework and thus a clear reason for refusing development under paragraph 11(d)(i).
42. Even if I were to take the view the proposal would assist boosting the supply of housing in line with a national drive for growth, I do not consider there to be an effective use of land due to the landscape and heritage harm identified. Whilst the appeal site is contiguous with the boundary of Ockley, the proposal would not be a suitable windfall site because of these aforementioned conflicts with development plan policy.
43. I do not find there to be any material considerations that would warrant a departure from the Development Plan. The appeal scheme clearly conflicts with national and local policy.

Conclusion

44. For the reasons given above the appeal should be dismissed.

D Wallis

INSPECTOR