



Appeal Decision

Site visit made on 11 March 2025

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2025

Appeal Ref: APP/Y3615/W/24/3351831

208 The Street, West Horsley, Surrey KT24 6HS

- 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 Pendragon Developments against the decision of Guildford Borough Council.
 - The application Ref is 23/P/00617.
 - The development proposed is the erection of two pairs of semi-detached dwellings and detached car barn together with associated amenity space, car parking and landscaping following demolition of existing motor vehicle repair workshop/MOT buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A draft agreement pursuant to Section 106 of the Town and Country Planning Act 1990 – as amended, has been provided. I return to this later.
3. An ecological appraisal and a sustainability & energy statement have been submitted in support of the appeal. Although these documents were not before the Council when it determined the application, both the Council and interested parties have had the opportunity to comment upon them at the appeal stage. As such, no parties would be prejudiced by my decision to accept this additional information.
4. The main parties have also had the opportunity to submit representations in respect of the version of the National Planning Policy Framework (the Framework) published in December 2024.

Main Issues

5. The main issues are the effect of the development on;
 - the Thames Basin Heaths Special Protection Area habitat site;
 - the supply of employment land within the Borough;
 - the character and appearance of the area;
 - any onsite protected species and the biodiversity value of the site; and
 - whether the development makes appropriate provision for sustainable design and construction practices; and
 - whether future occupiers would be able to secure adequate living conditions, with particular regard to noise and disturbance, and outlook.

Reasons

Habitat site

6. The site is within the 400m to 5km zone of influence (the ZOI) of the Thames Basin Heaths Special Protection Area (the SPA) which is a habitat site afforded protection under the Conservation of Habitats and Species Regulations 2017 - as amended (the habitat regulations). The SPA supports a range of species which include; internationally important breeding populations of woodlark, nightjar, and Dartford warbler. All of which, qualify under the habitat regulations.
7. These qualifying bird species nest on or near the ground, and as such, they are susceptible to predation and disturbance. The evidence indicates that new housing within the ZOI of the SAC can be expected to lead to both increased recreational pressure, and increased predation from animals such as cats, within it. Therefore, without suitable mitigation, and both alone and in combination with other developments, the scheme would result in a likely significant effect on the internationally important features of the SPA.
8. In these circumstances, the habitat regulations require the competent authority to undertake an Appropriate Assessment (AA) in relation to the likely significant effects of the proposal on the integrity of the habitat site. I have sought further evidence on this matter, and I have consulted Natural England.
9. A conservation objective of the SPA is to ensure that its integrity is maintained or restored as appropriate. The Council's Thames Basin Heaths Special Protection Area Avoidance Strategy¹ (the SPA avoidance strategy), which has been endorsed by Natural England, indicates that the SPA has historically been subject to high development pressure, and that the breeding success of all three bird species is vulnerable to impacts from surrounding urban pressures and recreational disturbance. As the implementation of the appeal scheme would lead to additional dwellings within the ZOI of the SPA, it would lead to increased pressures on it. As such, without mitigation, and both alone and in combination with other developments, it would conflict with the conservation objectives of the habitat site and lead to an adverse effect on its integrity.
10. To avoid adverse effects on the SPA from any net increase in residential dwellings within its ZOI, the SPA avoidance strategy includes a requirement for a financial contribution towards a Strategic Access Management and Monitoring (SAMM) strategy - which would be used to support access management and engagement works within the SAC. It also requires a contribution towards Suitable Alternative Natural Greenspace (SANG) - to enable the provision of alternative recreational spaces away from the SPA.
11. The draft section 106 agreement includes measures to make SAMM and SANG payments to the Council, before the commencement of the development. Given that it includes an indexation clause, the amounts payable would accord with that set out within the Council's Special Protection Areas Tariffs SPD², which updates the SPA avoidance strategy. However, the document has not been signed by the Council, dated, or executed. As such, it cannot be relied upon to deliver the required mitigation measures.
12. I must take a precautionary approach in respect of this matter. Consequently, and in the absence of certainty that the required SANG and SAMM contributions would

¹ Guildford Borough Council – Thames Basin Heaths Special Protection Area Avoidance Strategy 2017 Supplementary Planning Document (factually updated 2021 and 2024)

² Guildford Borough – Special Protection Area Tariffs Supplementary Planning Document (SPD) – September 2024

be made, I cannot rule out harm being caused to the integrity of the SPA from the implementation of the proposed development. That being the case, I must consider whether there are any alternative solutions that would have a lesser effect on the qualifying features of the habitat site. However, as no such solutions are before me, I cannot conclude that this would be the case.

13. Moreover, from the evidence and given the small scale of the scheme, there are no imperative reasons of overriding public interest relating to human health, public safety, or benefits of primary importance to the environment, which would result from the delivery of the development. The habitat regulations therefore indicate that permission must not be granted. This provides a strong reason for dismissing the appeal.
14. For the reasons set out, there is insufficient evidence to provide the certainty needed to rule out adverse effects on the Thames Basin Heaths SPA habitat site. Consequently, the development would conflict with policy P6 of the Guildford Borough - Guildford Borough Local Plan: Development Management Policies – Adopted on 22 March 2023 (the LPDMP), policy P5 of the Guildford Borough – Guildford borough Local Plan: strategy and sites 2015-2034 – adopted 25th April 2019 (the LPSS), and policy NRM6 of the South East Plan 2009³. Collectively, and amongst other things, these policies seek to protect the SPA from development that would be likely to have a significant effect on its integrity.

Employment land

15. The appeal site is currently used for commercial purposes including vehicle repairs and servicing, MOT's, and car sales. Albeit a snap-shot in time, during my mid-morning and mid-week site visit at least 3 people were working on the site, and several visitors were observed. There was also a significant number of vehicles within the site. I have no reason to doubt that the types and levels of activity observed are typical.
16. Notwithstanding the associated definition of employment floor space within policy E3 of the LPSS, and even if the site is in a sui generis use, it nonetheless provides employment floorspace. That being the case, policies E3 of the LPSS and WH10 of the Neighbourhood Plan are relevant. Collectively, these policies seek to maintain employment capacity, improve employment floor space, and resist its loss unless certain exceptions apply. These exceptions include where the use is no longer viable. To accord with policy E3, it would be necessary for all the relevant policy criteria to be complied with.
17. Although the appeal site is not a designated employment site – as defined on the Council's proposals maps, and it has not been allocated for an alternative use within the development plan, it nonetheless has value as an employment site.
18. Some discrete efforts have been made to market the property, including by a local estate agent. However, it is not clear whether the agent is a commercial property agent. Moreover, no details have been provided regarding the price the property was marketed for. As such, I cannot establish that the price genuinely reflected the market value of the site. It is also not clear whether full property details and particulars were available to enquirers on request, or that an advertising board was

³ Government Officer for the South East – The South East Plan – Regional Spatial Strategy for the South East of England – May 2009

posted in a prominent location on the site. I appreciate the appellant's desire to protect the existing business/es on the site. However, for the reasons given, I cannot conclude that the site was comprehensively marketed for at least a year, or that there is no likely demand for it as an employment site.

19. I accept that the limited size of the site may hamper efforts to expand or develop the business in this location. It may also be the case that increasingly, car owners choose to have their vehicles serviced at main agents and more modern and high-tech workshop facilities. However, from both my observations and interested party representations, I do not doubt that the existing business/s on the site provide both employment and a well-supported and highly valued local facility. Furthermore, no business accounts have been provided, and the marketing that has been undertaken has not been comprehensive. As such, and given that there is no compelling evidence that the existing use of the site has been harmful to the living conditions of nearby residents or highway safety, I cannot establish that its existing employment use is no longer viable, or that the premises are unsuitably located.
20. For these reasons, the development would harm the supply of employment land within the Borough. Consequently, it would conflict with policy E3 of the LPSS and policy WH10 of the Neighbourhood Plan.

Character and appearance

21. Although in use for commercial purposes, the site is within an otherwise mainly residential part of West Horsley.
22. Despite being set back from the Street, the building on the appeal site has a large footprint and its appearance is very different from the nearby dwellings. Moreover, and due to the somewhat haphazard and cramped use of most of the rest of the land for access car parking purposes, the site does not make a positive contribution to the character and appearance of the area. Consequently, and in terms of this main issue, the cessation of the existing use and the removal of the building would be beneficial.
23. Many houses in the area are in large plots with sizable rear gardens. Nevertheless, the houses are often located close to each other. As such, and despite the fairly small proposed rear gardens, the development would not appear cramped either within the site or when compared with the nearby built form that is visible from the Street. Furthermore, the separation distance between the proposed buildings and the Street, and the inclusion of soft landscaping measures, mean that the development would not be either harmfully urbanising or prominent when viewed from nearby locations along this road and on the opposite side of this road. Instead, and in common with many nearby houses, the proposed dwellings would address the Street. Therefore, and notwithstanding that the residential accommodation would be provided in the form of 2 pairs of semi-detached houses, it would respond well to existing patterns and grains of development in the area.
24. The proposed buildings would also be of a height and scale that is similar to other nearby buildings. Although I did not observe any other ornamental tower features on the roofs of other structures in the area, the nearby buildings are of a variety of designs, scales, ages, and appearances. Moreover, they include a range of different roof forms. That being the case, the development would not be unduly prominent or incongruous in relation to nearby built form.

25. Notwithstanding the above considerations, the appeal site is adjacent to a fairly small area of publicly accessible open space. Albeit this open space is largely framed by existing development and land uses around it, it retains a pleasant and verdant character and appearance. Due to its height and proximity to the edge of this open space, the house on plot 4 would have a small enclosing and urbanising effect upon it. However, and notwithstanding the small harm that would be caused by this, as a whole, the development would lead to a modest improvement to the character and appearance of the wider area.
26. For these reasons the development would not cause harm to the character and appearance of the area. Consequently, it would accord with policy D1 of the LPSS and policy D8 of the LPDMP. Together, and amongst other things, these require development to be of a high quality of design and to respond to the distinctive local character of the area. They also require that regard be given to matters such as the existing urban grain, plot sizes, and rhythms and lines.

Sustainability

27. Collectively, policy D2 of the LPSS and policies D14 and D16 of the LPDMP relate to climate change, sustainable design, and energy. Amongst other things, they require applications for development to include information setting out how sustainable design and construction practice will be incorporated. According to these policies, such development should follow a 'fabric' first approach in line with the energy hierarchy set out in policy D2, and include measures to minimise carbon emissions.
28. Notwithstanding the content of the original Climate Change, Energy and Sustainable Development questionnaire, in the later Sustainability & energy statement by Bluesky Unlimited, it is proposed that space heating and hot water for the houses would use air source heat pumps. That being the case, and subject to the implementation of the other measures set out within the statement, it would be possible to secure a significant reduction in carbon dioxide emissions over and above that required by building regulations. It would also be possible to secure a good fabric energy efficiency level. Had the development been otherwise acceptable, it would have been appropriate and necessary to impose a condition requiring compliance with the measures set out in the sustainability & energy statement. It would have also been necessary to require the submission of a waste management strategy to ensure that materials and waste from the demolition and clearance of the site and subsequent construction works would be managed in accordance with the requirements of policy D2.
29. On that basis, and for the reasons given, the development would make appropriate provision for sustainable design and construction practices. As such, it would comply with policy D2 of the LPSS, and policies D14 and D16 of the LPDMP.

On-site protected species and biodiversity

30. An ecological appraisal has been produced by a Chartered Institute of Ecology and Environmental Management registered practice. At least partially, it is based upon the findings of a preliminary ecological appraisal, including a preliminary bat roost assessment. From this assessment, I am satisfied that the buildings and trees on the site do not provide a suitable habitat for roosting bats, and that the appeal site contains common and widespread habitats with no notable or priority habitats.

31. The site has potential to support foraging and commuting bats and badgers, as well as common and widespread species of nesting birds. Nevertheless, any likely adverse effects on these species from the proposed development could be suitably mitigated by the imposition of appropriately worded condition/s. Furthermore, and subject to the implementation of measures such as those outlined within section 9 of the ecological appraisal, then the development would enhance the biodiversity value of the site. However, a condition would need to be imposed to ensure this benefit.
32. For these reasons, the development would not cause harm to any on-site protected species or to the biodiversity value of the site. Consequently, and in respect of this main issue, it would comply with policies P6 and P7 of the LPDMP. Collectively, and amongst other things, these require developments to protect important habitats and species, and, to seek to maximise on-site biodiversity gain.

Living conditions

33. The fronts of the proposed houses would be close to the driveway and parking spaces that would serve them. As a result, future occupiers of the dwellings would experience some noise and light from the use and access of the proposed car parking spaces. Nevertheless, the access and parking arrangements are similar to that which may ordinarily be encountered within residential areas. Moreover, only 4 dwellings are proposed. As such, any noise or disturbance would not be significant or harmful.
34. The proposed driveway and car parking would be closely visible through windows in the front of the proposed houses. However, in such views, the parking and driveway would comprise only a small part of the outlook, which would also include areas of soft landscaping; development beyond the appeal site; and the sky. Future occupiers of the houses would therefore be able to secure a decent quality of outlook from those rooms with windows that address the proposed driveway and parking area.
35. In respect of this main issue, the development would not therefore conflict with that part of the Framework which requires the creation of a place with a high standard of amenity for future users, and, it would not undermine the quality of life that such occupiers could reasonably expect to secure.
36. For these reasons, the development would provide adequate living conditions for future occupiers, with particular regard to noise and disturbance, and outlook. Consequently, it would comply with policy D5 of the LPDMP. Amongst other things, this requires development to avoid resulting in unacceptable living conditions for new residential properties.

Other Matters

37. I have found that harm would be caused to a habitat site, and that this harm provides a strong reason for refusing the development. As such, and even if the Council cannot demonstrate a five-year supply of deliverable housing sites, paragraph 11. d) ii. of the Framework doesn't apply.
38. That the appeal scheme would re-use previously developed land would be a benefit. Future occupiers would have reasonable access to a range of local services and facilities by means other than private car. In addition, the

development would benefit the local economy and contribute to the Government's objective of significantly boosting the supply of housing. Environmental benefits would also arise from the implementation of energy and water efficiency measures that go beyond those required by building regulations, and from the implementation of measures to enhance the biodiversity value of the site. However, given the scale of the scheme, each of these benefits would be small.

39. For the purposes of decision taking, the Council has accepted that it cannot demonstrate a five-year supply of deliverable housing sites as of 1 April 2025. However, because only four houses are proposed, the development would not make more than a moderate contribution to the housing land supply in the Borough.
40. On the opposite side of the Street from the appeal site are the 2 nearby grade II listed buildings known as The Old Cottage and Winterfold. The significance of these designated heritage assets stems, in part, from their architectural and historic interest as Hall houses dating back to the 15th century. The gardens and outside spaces that are functionally linked to these houses form part of their setting and also contribute to their significance. These buildings are experienced in the context of the later nearby development, including that on the appeal site. As such, and given the presence of the intervening road and the fairly modest scale of the proposed dwellings, the development would not cause harm to the significance of these listed buildings or to the contribution that their settings make to their significance.

Conclusion

41. Notwithstanding my findings in respect of the 3rd, 4th, 5th, and 6th main issues, the proposed development would result in the harmful loss of an employment site and harm to a habitat site. These harms and the associated development plan conflict are prevailing considerations. The development would therefore conflict with the development plan when read as a whole. Moreover, material considerations do not indicate that the appeal should be decided other than in accordance with the development plan.
42. I therefore conclude that this appeal should be dismissed.

V Simpson

INSPECTOR