



Appeal Decision

Site visit made on 3 April 2025

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2025

Appeal Ref: APP/D3640/W/24/3350699

St. Margarets, Woodlands Lane, WINDLESHAM, GU20 6AS

- 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 SCWW3 Ltd against the decision of Surrey Heath Borough Council.
 - The application Ref is 24/0305/FFU.
 - The development proposed is the erection of 9 dwellings following demolition of existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A draft Unilateral Undertaking made under section 106 of the Act is submitted with the appeal. In general terms this concerns making a financial contribution towards the provision of Strategic Access Management and Monitoring (SAMM) and Suitable Alternative Natural Greenspace (SANG).

Main Issues

3. The main issues are:
 - The effect of the redevelopment proposed on the character and appearance of the area; and
 - The effect on the Thames Basin Heath Special Protection Area (TBHSPA).

Reasons

Background

4. At the moment the appeal site comprises a detached house set in extensive grounds surrounded by woodland and there is a belt of mature trees, the subject of a Tree Preservation Order (TPO), along the frontage with Woodlands Lane. The site lies in an area of countryside lying between the village of Windlesham and the M3.
5. However, it is clear that the land around the appeal site and generally to the east of Windlesham is subject to considerable change. The appellant indicates that this land is allocated for residential development in the Surrey Heath Local Plan (2019-2038) Pre-Submission version which is a material consideration. The parties also refer to land to the north of the appeal site being part of a permitted scheme for 140 houses. The intervening land shown as The Ferns on the appeal site plan (but also referred to as *Kiltubride* on other plans) is said to be part of an allocation for 20 'net' dwellings.

There is also a commitment by the Council to grant permission, subject to the completion of a formal agreement, for residential development on the land to the east of the appeal site.

6. Finally I note that an appeal was allowed in November 2024 under ref. APP/D3640/W/24/3343307 for the erection of 9 dwellings on the appeal site itself as proposed by the current appellant. The current appeal is therefore an alternative to that permitted.
7. On the basis of the evidence put forward it appears to me that the principle of residential development on the appeal site has already been established and with other residential development to take place around it. The main issues therefore need to be considered in this context.

Effect on character and appearance

8. There are only slight differences between the current appeal scheme and the details approved in the 2024 appeal on this site. A similar design of detached and semi-detached dwellings is proposed with the individual buildings having a relatively ornate front elevation and a high two storey form with accommodation in a 'crown' roof.
9. The proposed layout of the houses is also very similar with an access driveway in the eastern side of the site leading to a turning area at the rear where two pairs of semi-detached houses are sited at a right angle to the others. The main difference to the layout being a slight increase in the gap at the side of each new property which would give the development a slightly more spacious appearance when viewed within the site. Nevertheless, the difference would hardly be noticeable from the public realm around Woodlands Lane where views of the detached house set back from the frontage would be limited by the presence of the tree belt to be retained.
10. The Council considers that the scale of development proposed would not reflect the local environment particularly because of the high ratio of built footprint to open space. There is also concern about the lack of separation distance between the plots, as well as between plots 6 and 9 and the site boundaries. However these concerns predate and do not appear to take into account the scheme approved in the 2024 appeal.
11. In terms of the relationship with the neighbouring land to be developed, the form of development permitted is not clearly shown but it appears to involve a mixture of detached and semi-detached properties and where each layout retains a woodland belt along the frontage.
12. The inspector in the 2024 appeal concluded that the proposal on the appeal site involved a suitable design and layout which did not harm the character and appearance of the area, and the proposal did not conflict with the relevant policies in the development plan. Taking account of the form of other development on neighbouring sites I have no reason to reach a different view.

Effect on the TBHSPA

13. The appeal site lies within the 5km zone of influence of the Thames Basin Heaths SPA. Policy CP14B of the Core Strategy and Development Management Policies (CSDMP) indicates that within this zone, further housing development is considered

to give rise to the possibility of significant effects on the habitat particularly for ground nesting birds, through an increase in recreational pressure.

14. The policy goes on to stipulate that new residential development will be required to provide appropriate measures to avoid adverse effects upon the SPA in accordance with the Council's Avoidance Strategy. This normally involves mitigation through the provision of or contributions towards SANG and SAMM (as described in paragraph 2 above).
15. In this case the Council advises that if a formal legal agreement is secured no further objection is raised on this issue. Although the appellant has submitted a draft agreement, the document is not signed or dated and therefore cannot be considered as a legally binding Undertaking. The appellant has been given additional time to rectify this but no completed Undertaking has been forthcoming. Therefore, the draft Undertaking is incomplete and cannot carry any weight.
16. On this basis, this proposal for new housing development does not put forward appropriate mitigation and I cannot be certain that the development would not have an adverse effect on the integrity of the SPA. As it stands the proposal therefore conflicts with Policy CP14B and associated guidance.

Planning balance

17. Although in adopted policy terms, the appeal site lies in the countryside away from Windlesham, new housing on and around the site has already been permitted. This is a material consideration which outweighs the policy objection in principle. I have also found that the appeal scheme would not harm the character or appearance of the area having regard to development already permitted.
18. However, the proposal does not include a legally binding solution for the mitigation of the effects on the TBHSPA. As such it has not been demonstrated that the development would not have an adverse effect on the integrity of this special habitat. The proposal therefore conflicts with Policy CP14B.
19. This conflict with the development plan considered as a whole is not outweighed by any other consideration which indicates that the appeal should not be allowed.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR