



Appeal Decision

Site visit made on 2 May 2025

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th June 2025

Appeal Ref: APP/Q3630/W/24/3352763

White Lodge, Holloway Hill, Lyne, Chertsey, Surrey KT16 0AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended (“the Act”) against a refusal to grant planning permission.
 - The appeal is made by Mr Damian Aziz of Hestia Homes (Surrey) Limited against the decision of Runnymede Borough Council.
 - The application Ref is RU.24/0427.
 - The development proposed is the demolition of existing dwelling and development of seven dwellings with associated car parking, access and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. After the appeal was submitted the Government published the revised National Planning Policy Framework (“the Framework”) in December 2024, and the updated Green Belt chapter of the Planning Practice Guidance (“the PPG”) in February 2025. In the interests of fairness both main parties have been given the opportunity to comment on the revised Framework and PPG, and any made have been taken into account in my decision.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposed development would affect the integrity of the Thames Basin Heaths Special Protection Area (“the SPA”).
 - Whether the proposed development would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the Framework, and its effect on the openness of the Green Belt.
 - Whether the proposed development would be in a sustainable location having particular regard to the accessibility of services and facilities, and Framework paragraphs 110 and 115.

Reasons

The integrity of the Thames Basins Heath SPA

4. The evidence indicates that the appeal site lies within the 5km buffer of the SPA, which is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017, as amended (“the Regulations”). The SPA is designated for internationally important bird populations, which nest near the

ground making them susceptible to human disturbance. Occupants of the appeal development would be expected to visit the SPA for recreational purposes and contribute to disturbance of the qualifying bird species, thus leading to declining populations and threatening the integrity of the SPA.

5. Consequently, both on its own and cumulatively with other housing developments, the appeal development is likely to have a significant adverse effect on the integrity of the SPA. Such adverse effects should be mitigated through financial contributions towards the provision of suitable alternative natural greenspaces (SANG) and strategic access management and monitoring (SAMM) measures. The evidence indicates that this is set out in the Thames Basin Heaths SPA Supplementary Planning Document 2021.
6. Under the Regulations it is my duty as the Competent Authority (CA) to undertake an Appropriate Assessment (AA) to determine whether I have certainty that measures could be secured to avoid or mitigate the appeal development's likely significant adverse effect on the integrity of the SPA.
7. There is no dispute between the main parties that the first signed and executed Unilateral Undertaking (UU), submitted with the appeal ("the first UU") would be ineffective in mitigating the appeal development's likely significant adverse effect on the integrity of the SPA, not least because the financial contributions in the UU's planning obligations are incorrect. An additional signed and executed UU ("the second UU") was submitted as late evidence.
8. The totality of the financial SANG and SAMM contributions in both UUs would exceed that necessary to mitigate the effects of the appeal development on the SPA. Whilst the appellant seeks to prevent this, I have not been provided with a mechanism that would achieve it and cannot be satisfied that the first UU could be withdrawn. Best practice on planning obligations in the appeals procedural guide¹ ("the procedural guide") states that where an obligation has been entered into and executed it will not usually be possible for the obligation to be subsequently withdrawn or modified unilaterally.
9. Under section 106(1) of the Act, the procedural guide states that normally all persons with an interest in land affected by a planning obligation – including freeholders, leaseholders, holders of any estate contracts and any mortgagees – must sign the obligation.
10. The Mortgagee bank has an interest in the appeal land and is not a signatory to either of the UUs that are before me. Therefore, if the Mortgagee took possession of the appeal land it could not be bound by the planning obligations in the UUs. I have no substantive evidence to support the appellant's assertion that Mortgagees commonly decline to be a party to a planning obligation, or that the Mortgagee has declined to sign either of the UUs that are before me.
11. There are additional clauses in the second UU which seek to prevent the commencement of development until such time as the Mortgagee's interest in the land has been removed. However, those clauses do not override the requirement for all persons with an interest in the appeal land to sign the UU and be bound by it. The Mortgagee is not a signatory to the UU, and therefore it would not be bound by those clauses and the planning obligations, including if it took possession of the

¹ Planning Inspector Procedural Guide: Planning appeals – England Updated 16 April 2025

appeal land after the planning permission was granted. In that scenario the obligations in the UU could not be enforced and it would not be effective.

12. For these reasons, I cannot be certain that the requisite mitigation would be secured to avoid and mitigate the appeal development's likely significant adverse effects on the integrity of the SPA. This is the case regardless of any concerns that I have relating to the absence of a mechanism to withdraw or modify the obligations in the first UU, and the Council's concerns over securing payment of its legal costs.
13. Under the PPG^{2,3,4}, conditions cannot require the payment of money. However, in certain circumstances a Grampian condition can prohibit development until a specified action has been taken such as the provision of supporting infrastructure. In exceptional circumstances, the PPG states that where there is clear evidence that the delivery of the development would otherwise be at serious risk, a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate. This may apply in the case of particularly complex development schemes.
14. In the Kings Langley⁵ appeal the Inspector was satisfied in the specific circumstances of that case that imposing a Grampian condition securing a financial contribution to either a private SANG or a Council led SANG, in conjunction with an additional condition securing a legal agreement to allocate the SANG was justified. The appeal decision indicates that a SAMM mitigation financial contribution was also secured through a separate legal agreement.
15. I am not familiar with all the evidence presented to that Inspector. However, unlike the Kings Langley scheme, I have not been provided with the detailed wording of a Grampian condition or the precise details of the SANG. An effective planning obligation to secure the SAMM contribution is not before me. The appeal scheme would not utilise a Grampian condition in conjunction with the necessary planning obligation. Moreover, the appeal scheme is not complex and there is no clear evidence that its delivery would otherwise be at serious risk if a negatively worded condition requiring a planning obligation was not secured.
16. Despite some general similarities, I am not satisfied that the circumstances of the Kings Langley appeal, which appear complex and utilised a combination of conditions and legal agreements to secure mitigation, are directly comparable to the proposal before me. It is therefore of limited relevance to my considerations in this appeal, which I have considered on its own merits and the evidence put before me.
17. Taking all the above into account, I conclude through my AA that the UUs before me are not legal sound and would not be effective. Accordingly, I do not have certainty that the proposed development would avoid or mitigate its likely significant adverse effects on the nature conservation interests of the SPA. Consequently, the appeal development is contrary to Policy EE10 of the Runnymede 2030 Local Plan Adopted July 2020 ("the RLP"), which requires development to avoid and mitigate potential adverse effects on the SPA.

² Paragraph: 005 Reference ID: 21a-005-20190723

³ Paragraph: 010 Reference ID: 21a-010-20190723

⁴ Paragraph: 009 Reference ID: 21a-009-20140306

⁵ APP/A1910/W/23/3333545

18. The development also conflicts with Framework Paragraphs 187 and 193, which require decisions to protect sites of biodiversity value in a manner consistent with their statutory status, and to refuse planning permission if significant harm to biodiversity cannot be avoided, adequately mitigated, or as a last resort compensated for.

Whether inappropriate development

19. The construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. These exceptions include buildings that constitute 'limited infilling in villages' as set out in Framework Paragraph 154.e), and the limited infilling or the partial or complete redevelopment of previously developed land (PDL) whether redundant or in continuing use, which would not cause substantial harm to the openness of the Green Belt, as set out in Framework Paragraph 154.g).
20. A 'village' is not defined in the Framework or the RLP. The RLP states that there are no villages within Runnymede. I have not been referred to any other definition of a village. Whether a site is within a village is a question of planning judgment for the decision maker based on a site's particular characteristics and its context when assessed 'on the ground'.
21. The appeal decisions⁶ brought to my attention by the appellant, whilst reflecting caselaw on limited infilling in villages⁷, were the outcome of site-specific assessments for appeals in different locations and contexts. Therefore, I am not satisfied that they are genuinely comparable to the circumstances in this appeal, and they are of limited relevance to my assessment of it.
22. In the absence of any formal definition of a village it is reasonable to consider the size, extent and spread of built development in the area, the pattern of development, and the scale and massing of buildings within it, as relevant factors in identifying whether a particular site lies within a village. The pattern of development in villages can vary as can their size and the sizes of buildings within them. However, in my judgement, a village would be a relatively small settlement.
23. The appeal site is set amongst a general ribbon of development on the northern side of Holloway Hill. On the opposite side of the road is an extensive area of well consolidated development including the Hospital site and its large-scale buildings, areas of housing and a business park beyond that to the southwest. Roughly to the southeast of the Hospital is a sizeable spread of well consolidated housing development of a suburban character that is located close to the M25. The size and extent of development in this area is not small. Factoring in the pattern, density and scale of the buildings within it, the settlement does not have the scale or character 'on the ground' of a village.
24. For these reasons, I do not consider the appeal site to be located within a village. Accordingly, the appeal proposal would not constitute limited infilling in a village under Framework exception 154.e) and it would be inappropriate development in the Green Belt.

⁶ APP/B1930/W/22/3300239, APP/T0355/W/22/3309281 and APP/T0355/W/23/3314990, APP/M3645/W/16/3141780

⁷ Julian Wood v SSCLG & Gravesham Borough Council [2015] EWCA Civ 195

Openness of the Green Belt.

25. The main parties agree that the appeal site is PDL, and I have no basis to consider otherwise. The proposal would constitute the partial or complete redevelopment of such land. RLP Policy EE17 sets a more stringent test than the revised Framework in assessing whether a development would be inappropriate because of its impact on Green Belt openness. Accordingly, I have given significantly greater weight to the Framework in determining whether the appeal proposal is inappropriate development under Paragraph 154.g).
26. The essential characteristics of Green Belts are their openness and permanence. Openness has spatial and visual aspects. The appeal proposal would inevitably reduce Green Belt openness in spatial terms through development that would partly occupy land where no building or built development currently exists. The evidence suggests that the proposed development would lead to an increase in footprint of some 126% over and above the existing bungalow.
27. The appeal development would result in a greater spread of development across the appeal site than the existing development, including a more intense level of activity. However, the proposed dwellings, hardstandings and ancillary structures at the rear of the site would be substantially screened in views from the road by the scale and massing of the frontage dwellings. In views from the road the proposed dwellings would be no taller than the existing bungalow to be demolished and similar in height to the low-rise flanking buildings. The layout of the proposed development would relate to the pattern of development in the area, particularly at High Trees. For these reasons, the appeal proposal's visual harm to Green Belt openness would be relatively modest and localised in extent.
28. For these reasons, the appeal proposal would cause a moderate level of harm to the openness of the Green Belt, contrary to RLP Policy EE17. This would fall well below the level of substantial harm to the openness of the Green Belt. Accordingly, the appeal proposal would meet the exception in Framework paragraph 154.g) and would not be inappropriate development in the Green Belt. Accordingly, there would be no conflict with any of the Green Belt's purposes.

Accessibility to services and facilities

29. The appeal site is located with a row of development that fronts onto Holloway Road, which is a wide road subject to a 40-mph speed limit. It connects with a dedicated cycle lane on Guildford Road to the east. The appellant's evidence indicates that a range of services, facilities and bus stops can be reached from the appeal site by walking along dedicated footpaths on the opposite side of the road and by cycling along Holloway Road. Those routes appeared sufficiently comfortable and safe for walking and cycling, and I have no substantive evidence to the contrary.
30. Walking journeys to the secondary school, the Hospital and the bus stops on Guildford Road fall within the Council's ideal journey times. The walking journey to the convenience store on Little Green Lane only marginally exceeds the journey time stated by the Council and would be unlikely to deter such journeys. Whilst walking to the nearest primary school in the rural area to the north would be possible, it would take longer than the journey times stated by the Council, thus increasing the probability of car journeys. However, opportunities to maximise sustainable transport will differ between rural and urban areas. The evidence

shows that throughout the week frequent daily bus services run from the closest bus stops to settlements including Woking and Hatton Cross, and between St. Peter's Hospital and Kingston. An hourly bus service runs between Addlestone and Sunbury via Chertsey, except on Sundays.

31. Taking all the above into account, I am satisfied on the evidence before me that a good range of services, facilities and employment opportunities, both locally and further afield, are realistically accessible from the appeal site by walking, cycling, and public transport. Accordingly, future occupiers of the proposed development, which I do not regard to be 'significant' in scale for the purposes of Framework paragraph 110, would have opportunities to prioritise journeys by sustainable transport modes.
32. Conditions could be imposed to ensure that safe and suitable access would be provided for all users of the proposed development, that parking provision would be adequate and that no significant impacts on the transport network (capacity and congestion) or highway safety would arise.
33. For these reasons, I conclude that the proposed development would be in a sustainable location having regard to the accessibility of services and facilities, and Framework paragraphs 110 and 115.

Other Matters

34. The proposed development would make a valuable contribution to boosting the supply of housing to address the current shortfall against the 5-year requirement, including on PDL and in a sustainable location. Economic, social and environmental benefits would be delivered through construction and occupation of the development.
35. In accordance with RLP Policies SD7 and SD8, energy and water could be used efficiently, including through air source heat pumps, thus meeting relevant Building Regulations standards, including for accessibility. Biodiversity could be enhanced in accordance with RLP Policy EE9.
36. The Council considered that the appeal proposal would not harm the character and appearance of the area, protected species, retained trees or the living conditions of nearby residents. The Council considered that conditions could secure satisfactory drainage, access improvements and landscaping. I find no basis to disagree with the Council's assessment of those matters. However, an absence of harm in these respects is a neutral consideration that does not weigh in favour or against the scheme. Trees previously removed from the appeal site are a matter for the Council.

Conclusion

37. I have concluded through my AA that the appeal proposal would have a significant adverse effect on the integrity of the SPA as a protected habitats site. In the absence of any compensatory measures, imperative reasons of overriding public interest to grant planning permission, or alternative solutions, I am directed by Regulation 63(5) of the Regulations to refuse planning permission.
38. Irrespective of the benefits of the scheme and the absence of other harms, this is a determinative matter that brings the proposed development into conflict with RLP Policy EE10. Given the importance placed by the Framework on the protection of

sites of biodiversity value, I attach substantial weight to the conflict with Policy EE10. This is sufficient to bring the development into conflict with the development plan as a whole.

39. The Council is unable to demonstrate a 5-year supply of housing sites and therefore Paragraph 11 of the Framework is relevant. However, under Footnote 7 to Framework Paragraph 11.d)i. the proposal's adverse effect on the SPA provides a strong reason for refusing the proposed development. Accordingly, the presumption in favour of sustainable development does not apply and for the same reason the appeal site is excluded from Grey Belt under the Framework's glossary.
40. I conclude that the proposed development would be contrary to the development plan. There are no other material considerations, including the proposal's benefits and the provisions of the Framework, which outweigh this finding. The proposal is therefore unacceptable and the appeal should be dismissed.

G Sylvester

INSPECTOR