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## Appeal Decision

Site visit made on 24 November 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17<sup>th</sup> December 2025

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**Appeal Ref: APP/Y3615/W/25/3372802**

**Hogs Back Farm, Monkshatch, Guildford, GU3 1DL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
  - The appeal is made by Mr Mark Phillips (Fenton Close Limited) against the decision of Guildford Borough Council.
  - The application Ref is 25/P/00777.
  - The development proposed is described as application for permission in principle for two detached dwellings following demolition of existing buildings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent (TDC) application if permission in principle (PiP) is granted. I have determined the appeal accordingly.
4. The description of development provided in the application form refers to four dwellings. However, Section E of the appeal form states that the proposal has been amended to provide two dwellings with boundary landscaping, consistent with the Council's decision notice which also refers to two dwellings. Given this, in the interests of clarity, I have utilised the description of development provided in the decision notice in the banner heading above.

### Procedural Issues

5. Article 5B(1) of the Town and Country Planning (Permission in Principle) Order 2017 (as amended) (the Order) provides that permission in principle cannot be given for habitats development. This is defined in Article 5B(5) as development which is likely to have a significant effect on a European site<sup>1</sup> or a European

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<sup>1</sup> As defined by regulation 8 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations)

offshore marine site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site; and for which the competent authority has not given consent, permission, or other authorisation in accordance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (the Regulations).

6. The appeal site lies within the 400m to 5km buffer zone of the Thames Basin Heaths Special Protection Area (SPA), which is a European site afforded protection under the Habitats Regulations. The SPA was designated to protect the populations of three internationally threatened bird species that use the heathlands: woodlark, nightjar and Dartford warbler.
7. The conservation objectives of the SPA include ensuring that the ecological integrity of the SPA is maintained or restored as appropriate. As the above-mentioned bird species nest on or near the ground, they are very susceptible to predation by cats, rats and crows, and to disturbance from informal recreational use, especially walking and dog walking.
8. The proposal would result in a net increase in the number of dwellings. Given the susceptibility and vulnerability of the qualifying features of the SPA to such uses, particularly when considered in combination with other plans and projects, the proposal would have a likely significant effect on the SPA due to increased disturbance through recreational activity. I must therefore undertake an Appropriate Assessment (AA) in accordance with my duty under the Habitats Regulations.
9. The Council's Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document 2017 (the SPD) sets out a strategic approach to mitigate adverse impacts on the SPA, including through a financial contribution to use the Sustainable Alternative Natural Green Spaces (SANGs) capacity within the Borough when a development does not provide its own, along with financial contributions towards the Strategic Access Management and Monitoring (SAMM). The SAMM project includes a monitoring programme and access management element focusing on non-infrastructure measures such as wardening, leaflets and educational material.
10. The PPG is clear that PiP can only be granted if, after taking account of mitigation measures in the AA, a decision-maker concludes the development would not adversely affect the integrity of the Habitats site. To come to such a conclusion, I must be satisfied beyond all reasonable scientific doubt that any adverse effect on the integrity of the Habitats site would be avoided. This means there must be certainty that any necessary mitigation would be delivered. However, there is no mechanism before me to ensure that the financial contribution towards SANGs / SAMM would be secured.
11. Therefore, while I note the appellant's suggestion that the necessary mitigation would be addressed at TDC stage, in carrying out this AA, I must take a precautionary approach. Even though there is certainty about what the necessary mitigation measures would entail in this case, in the absence of an effective mechanism before me to include the mitigation provisions with the trigger for its delivery linked to the associated TDC stage, I do not have the necessary certainty that any adverse effects on the integrity of the SPA would be avoided.

12. The appellant refers to other appeal decisions where Inspectors found that Habitats sites do not preclude PiP where mitigation can be addressed at TDC stage through planning obligations. However, I have not been supplied with any details regarding these cases, and therefore I am unable to conclude that they would be comparable to the appeal scheme. In any event, I have determined this appeal on its own merits, based on the evidence before me.
13. The appellant asserts that the Council routinely accepts financial contributions towards SANG and SAMM as adequate mitigation on the scope of full and outline planning applications. However, this is of limited influence in regard to the case before me which relates to a PiP.
14. For the above reasons, I therefore conclude that the proposal would have a likely significant effect on the integrity of the protected Habitats site, having regard to its increased recreational pressure. As such, the proposal would not comply with the Habitats Regulations.
15. Irrespective of the merits of the scheme, the proposal constitutes habitats development which is exempted from permission in principle under Article 5B(1) of the Order. Consequently, it follows that permission in principle cannot be granted.
16. It is therefore not necessary for me to consider the matters of location, land use and amount having regard to the Green Belt and the effect of the proposal on the character and appearance of the area any further as they would not be determinative to the outcome of this appeal. Consequently, the appeal must be rejected on procedural grounds.

### **Conclusion**

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

*P Terceiro*

INSPECTOR