



Appeal Decision

Hearing held on 31 March 2016

Site visit made on 31 March 2016

by Clive Hughes BA(Hons) MA DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 April 2016

Appeal Ref: APP/Y3615/W/15/3135326

Land south of Guildford Road, Ash, Surrey GU12 6BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Copperwood Developments (Guildford Road) Ltd against the decision of Guildford Borough Council.
 - The application Ref 14/P/01870, dated 1 October 2014, was refused by notice dated 23 July 2015.
 - The development proposed is outline application for the erection of 56 dwellings with associated parking, landscaping, a balancing pond and off-site highway improvements.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 56 dwellings with associated parking, landscaping, a balancing pond and off-site highway improvements at land south of Guildford Road, Ash, Surrey GU12 6BS in accordance with the terms of the application, Ref 14/P/01870, dated 1 October 2014 subject to the fifteen conditions set out in the Annex to this Decision.

Preliminary matters

2. The application is in outline form with all matters other than access reserved for future consideration. The application was accompanied by an illustrative masterplan (Drawing No 1510_13 rev C) showing storey heights and the layout of the site. I have treated this plan as indicative only.
3. At the opening of the Hearing the appellants submitted a completed Agreement under s106 of the Act. This makes provision for 20 units of affordable housing; financial contributions towards the provision of Suitable Alternative Natural Green Space (SANGS); access management of the Special Protection Area; and the replacement of a bus stop and real time passenger information systems adjacent to the site. The Council confirmed that in the light of this Agreement it was no longer pursuing the third or fourth reasons for refusal.
4. During the course of the Hearing it became apparent that the Council's case in respect of the reason for refusal concerning surface water flooding was based upon an analysis of the "Flood Risk Assessment & Drainage Strategy" (22 July 2014). No account had been taken of the "Flood Risk Assessment Addendum" (14 July 2015) which had been submitted to the Council after consideration of the application had been deferred by the Planning Committee on 1 July 2015. The Addendum was submitted before the application was reported back to the

Committee on 22 July 2015 when the Officers' recommendation that the application be approved was based, in part, on the provisions of the Addendum which identified that the proposals would increase storage rates and reduce green field run-off to below existing levels. The *Statement of Common Ground* (SoCG) lists this Addendum amongst the application documents.

5. Following a private meeting between the respective expert witnesses, the Council confirmed that it had been reassured that its concerns set out in the second reason for refusal could be met by the suggested condition. I have determined this appeal on that basis.

Application for costs

6. At the Hearing an application for costs was made by Copperwood Developments (Guildford Road) Ltd against Guildford Borough Council. This application is the subject of a separate Decision.

Main issue

7. The main outstanding issue is the effect of the proposed development on the countryside with particular regard to the effect on openness and whether it would result in the loss of open space of value.

Reasons

Background

8. The site is situated on the inside of a sharp bend in Guildford Road (A323) about 1.5 km from the village centre of Ash and only a short distance to the east of the station and level crossing. There is housing to the west and north, with a car sales business either side of the junction with Ash Hill Road. To the east the site abuts housing in Dean Close and unused agricultural land. To the south of the site a new traveller site is currently under construction and there are paddocks for horses. A public footpath runs through the site, close to the southern boundary, from Guildford Road to Harpers Road where there are various community facilities including a playground.
9. Outline planning permission for a residential development of 80-90 dwellings was refused in 2009 and a subsequent appeal was dismissed in January 2011 (APP/Y3615/A/09/2115836) following a Public Inquiry. That scheme was for broadly the same site; the area of land to the south of the public footpath was a slightly different shape. In dismissing the appeal the Inspector concluded that the scheme would be seriously harmful to the character and appearance of the area and that the harm would not be outweighed by the fact that the housing land supply was significantly less than 5 years. The Inspector gave considerable weight to Policy RE4 (Countryside Beyond the Green Belt (CBGB)) of the *Guildford Borough Local Plan 2003*.
10. The SoCG acknowledges that the Council still does not have a 5 year housing land supply. The latest figures show a supply of about 2.4 years.

Character and appearance

11. The reason for refusal refers to the land being designated as CBGB and says that the development would not preserve the openness of this part of the countryside and would result in the loss of open space of value. At the start of the Hearing the Council confirmed that, notwithstanding the considerable

- weight attached to it by the previous Inspector, in respect of this appeal it was not relying on Policy RE4. It was agreed that the policy is not in conformity with the Framework and so the weight that can be given to it now is limited.
12. The only Local Plan policy cited in the reason for refusal is Policy G5(10) (Open spaces of value). This policy seeks to protect open spaces which contribute to the character of an area, in terms of the views they create and the feeling of openness they allow. The definition of open space, as set out in the Framework, is much more limited. This defines it as being all open space of public value which offer important opportunities for sport and recreation and can act as visual amenity.
 13. There is no public access onto the appeal site apart from the public footpath which crosses the site. This footpath would be retained. The proposals would not result in the loss of open space as defined in the Framework. The weight that can be given to Policy G5(10) is therefore limited as it is not in conformity with the Framework.
 14. There are public views of the site from three sides. To the north and west it can be seen from Guildford Road and two side roads (Ash Hill Road and Chester Road) which exit onto Guildford Road at right angles and so offer clear views of the site. Ash Hill Road, which rises up from a roundabout, offers views over the site although such views are interrupted by a car sales site, which has numerous banners, either side of the junction. In any case the rise is slight and long views are limited. To the south there is a public footpath with only a chain link fence and some intermittent planting between it and the main body of the site. On the remaining side lies Dean Close which is a private residential road with a high close boarded fence between it and the site.
 15. In terms of its Local Landscape Character the site falls within the Tongham Rural-Urban Fringe. The area is described as having extensive areas of unmanaged farmland, scrub vegetation, poor condition regenerative woodland and horse paddocks which provide a landscape setting of poor condition for parts of Ash and Tongham. The appeal site displays many of these characteristics insofar as it is a single field of unmown grass with some scrub, mainly birch. There are some brambles and bracken around the periphery.
 16. The *Landscape and Visual Impact Assessment* (LVIA), rightly in my opinion, identifies most of the viewpoints as having a low sensitivity to change with those from the public footpath being low/moderate or moderate. Only in a very long distance view, from the Hog's Back, is the sensitivity described as high. The development would be very difficult to discern from that viewpoint.
 17. The illustrative Masterplan indicates that the route of the footpath would be retained. While at the western end there would be a house, parking and access road close to it on the northern side, to the south it would remain open. Further east the site the path would adjoin the proposed Local Equipped Area for Play (LEAP) and public open space. This would introduce a recreational use onto the site where none exists at present and is one of several changes made to the scheme to address the previous Inspector's concerns.
 18. The public views are of some amenity value insofar as the site is an open and undeveloped parcel of land in an otherwise largely built-up road frontage. The land on the southern side of Guildford Road continues to be built-up for some distance to the east before there are playing fields and agricultural land.

19. While local residents have placed value on the landscape, it has no formal designation and so is not a valued landscape in terms of paragraph 109 of the Framework. The only relevant cited Local Plan policies carry limited weight as they are not in conformity with the Framework. The LVIA acknowledges that the proposals, by developing the site for housing, would result in some loss of openness and some harm to public viewpoints. Where any harm is identified, it is generally in the slight adverse category. This was not challenged at the Hearing and I agree with the conclusions. This harm needs to be weighed against the benefits of the proposals.

Thames Basin Heaths Special Protection Area (TBHSPA)

20. The third reason for refusal relates to the impact of the proposed development on the TBHSPA. The site lies within 500m of its boundary, the closest part being the Ash Ranges SSSI. The Council has adopted an Avoidance Strategy which enables developers to provide or make financial contributions towards the provision of SANGS. The s106 Agreement makes such a contribution.
21. I have considered this in relation to Regulations 122 and 123 of the CIL Regulations and the tests in paragraph 204 of the Framework. The contributions would be towards a local SANGS and towards Strategic Access Management and Monitoring (SAMM). The sums provided are reasonably related in scale and kind to the proposed development and would satisfy the tests in the CIL Regs and the Framework.
22. Regulation 123(3) of the CIL Regulations came into effect while the application was being considered by the Council. It restricts the pooling of more than 5 obligations towards infrastructure. The contribution here would be towards a new SANGS for which land has been set aside for future purchase and use. There are currently no financial contributions in respect of the land. The contribution would therefore be in accordance with Regulation 123(3) and the measures would accord with adopted policy.

Other planning matters

23. I have taken into account all the other matters raised at the Hearing and in the written representations. Concerning highway issues it is agreed that traffic can queue back from the level crossing to the roundabout adjacent to the north west corner of the site. The proposed improvements to this roundabout include the provision of two lanes for traffic coming into the roundabout from the eastern arm which would enable right-turning traffic to avoid the queue. I have noted that the County Highway Authority has not raised any objections.
24. With regard to the impact of the proposed development on a potential bridge to replace the level crossing, I was advised that there are no detailed plans for this at present although it remains on the Council's wish list. The indicative layout shows the housing in the south west corner, which would be closest to any ramp for a bridge, to be set some 20-40m back from the road so the impact on living conditions of future residents would be likely to be limited. Network Rail raised no objections to the proposals.

S106 Agreement

25. In addition to the TBHSPA considerations as set out above, the Agreement secures the provision of 20 units of affordable housing (36%) which accords with Council policy. The provision of off-site highway works in the form of a

new bus shelter and real time passenger information are reasonably related to the proposals as the widening of Guildford Road to the east of the roundabout involves the removal of an existing bus shelter. There are no other pooled financial contributions towards this. I am satisfied that the Agreement can reasonably be taken into account in this Decision.

Conditions

26. I have had regard to the agreed list of suggested conditions provided with the SoCG. These were discussed at the Hearing. The approved plans need to be identified. The proposed SANGS needs to be identified before development commences to ensure that the proposals do not adversely impact upon the TBHSPA. The LEAP needs to be provided before all the dwellings are occupied to ensure that it is provided in accordance with the submitted plans. The details of the drainage of the site, including the provision of a Sustainable Urban Drainage System, need to be approved and implemented prior to the occupation of the site as full details have not yet been provided. A condition has been imposed to ensure that carbon emissions are kept to a minimum.
27. An archaeological investigation is needed so that any finds can be accurately recorded before construction starts. The improvements to the roundabout junction with Guildford Road need to be carried out before development commences in the interests of highway safety. A Construction Transport Management Plan needs to be agreed and implemented for the same reason. The other highway and transport improvements need to be implemented before the proposed dwellings are occupied to encourage sustainable transport choices and in the interests of highway safety. The development needs to be carried out in accordance with the *Ecology Appraisal* (September 2014) to ensure there is no harm to protected species. A scheme of biodiversity measures needs to be submitted to and approved by the Local Planning Authority. The finished floor levels need to be agreed with the Local Planning Authority prior to the commencement of development in the interests of the appearance of the area and to ensure that the dwellings are not subject to surface water flooding.

Planning balance and conclusions

28. The Council acknowledges that it cannot currently demonstrate a 5-year supply of deliverable housing sites so it accepts that, in accordance with paragraph 49 of the Framework, the relevant policies for the supply of housing should not be considered to be up to date. This applies particularly to LP Policy RE4 which restricts development within the CBGB and which was given considerable weight by the Inspector in her 2011 Decision in respect of this site.
29. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development. It identifies that there are three dimensions to this; economic, social and environmental. The proposals would bring some economic benefits as there would be jobs during the construction of the scheme. The subsequent occupation of the dwellings would bring economic benefits to local businesses.
30. In terms of its social role, the scheme would provide 20 units of much-needed affordable housing in an area where there is an acknowledged shortfall in supply. The provision of the LEAP, to which there would be public access from the adjoining public footpath, would be a community benefit. The site itself is in a sustainable location with access to busses and trains and to the business and social facilities in Ash.

31. In environmental terms there would be some harm arising from the loss of the undeveloped land facing Guildford Road. There are many clear views of the site, especially from Ash Hill Road where, for southbound drivers and walkers, it is in the direct line of sight. From the public footpath the LVIA acknowledges that there would be some harm, in particular due to the proximity of housing to the western end. This harm, however, is tempered by the traveller site under construction to the south. There would be some environmental benefits due to the proposed planting, the balancing pond and the area of public open space.
32. It is necessary to balance the identified benefits of the development with the environmental harm. The weight to be given to the provision of housing in an area where there is a long-standing and substantial shortfall is considerable. This shortfall is likely to subsist for some time given the relatively early stage that the emerging Local Plan has reached in the process.
33. The second bullet point of the decision-taking section of paragraph 14 of the Framework is relevant. It says that where a development plan is absent, silent or relevant policies are out of date, the presumption in favour of sustainable development means granting permission unless either of two further bullet points are met. The first of these applies here and is the balancing exercise where permission should be granted for sustainable development unless any adverse impacts significantly and demonstrably outweigh the benefits.
34. The harm arises from the loss of open views over undeveloped land and its replacement with built development. This results in a loss of openness. In Framework terms there is no loss of open space as there is no public access to the land. Any loss is mitigated to some extent by the introduction of an area of open space on the land, adjacent to the public footpath, to which there would be public access. This harm carries some limited weight.
35. The benefits of the proposals are rather more substantial. The provision of 56 dwellings in an area with a significant shortfall of deliverable sites carries substantial weight. The fact that 20 of the units would comprise affordable housing adds to the weight in favour of the scheme. When taken together, the economic, social and environmental dimensions of the proposed development clearly show that the proposals represent sustainable development as defined in the Framework. The adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. In such circumstances the Framework is clear that planning permission should be granted.
36. Overall, therefore, the proposals comprise a sustainable form of development. Any conflict with the development plan is limited and is further reduced by the limited weight that can be given to the cited policies. At the Hearing the Council concurred that the issues concerning surface water flooding can be addressed by condition and that the issues concerning affordable housing, the TBHSPA and off site highway works have been addressed by the Agreement. The appeal is therefore allowed.

Clive Hughes

Inspector

APPEARANCES

FOR THE APPELLANT:

Richard Wald	Of Counsel
Andrew Bandosz BA(Hons) MA DipTP MRTPI	Director, D&M Planning Ltd
David Withycombe	Land Management Services Ltd
Alistair McShane	MJA Consulting
Ian Davis	Lytle Associates, Architects

FOR THE LOCAL PLANNING AUTHORITY:

Christopher Ward BA(Hons) LLM MRTPI	Bryan Jezeph Consultancy Ltd
Geoff Fowler MSc BSc(Eng) MICE	Guildford Borough Council

INTERESTED PERSONS:

Cllr Jo Randall	Guildford Borough Council
Alan Norris	Local resident
Terence Doyle	Local resident
John Sherwood	Land owner

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Rebuttal statement by Andrew Bandosz
- 2 Minutes of Planning Committee 22 July 2015
- 3 Signed agreement under s106 of the Act dated 30 March 2016
- 4 Indicative layout of 2011 scheme

PLANS

- A Drawing No 1510_01 B – Location Plan
- B Drawing No 1510_13 C – Illustrative masterplan
- C Drawing No 5013:RB1 – Roundabout general arrangement

Annex

Schedule of conditions (15 conditions)

- 1) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 2) Details of the appearance, landscaping, layout, and scale, hereinafter called "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 1510_01 Rev B and 5013:RB1.

- 4) No development shall take place until written confirmation has been obtained from the Local Planning Authority that the Council has secured mitigation for the development through contributions towards the maintenance and improvement of the Ash Lodge Drive Suitable Alternative Natural Green Space (SANGS), or other suitable SANGS as may be identified by the Council in consultation with Natural England. No dwelling shall be occupied before written confirmation has been obtained from the Local Planning Authority that any upgrading works required to make the land SANGS standard have been completed.
- 5) Prior to the occupation of the 25th dwelling the Local Equipped Area for Play (LEAP) shall be laid out in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and made available for use. The scheme shall include details of the proposed play equipment, surface materials, boundary treatments as well as evidence that the future maintenance of the LEAP has been secured.
- 6) Development shall not commence until a drainage strategy detailing any on and/or off site drainage work has been submitted to and approved in writing by the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.
- 7) No development shall take place until a full scheme for the provision of a Sustainable Urban Drainage System (SUDS) for the site has been submitted to and approved in writing by the Local Planning Authority. No residential unit shall be occupied until the approved SUDS has been constructed in accordance with the approved scheme. The details required shall include:
 - a full geotechnical report to ascertain if infiltration devices (in part) may be acceptable
 - full details of the proposed system including pipe positions, dimensions and levels, manhole levels and details of flow control devices
 - full details of the balancing pond including levels, gradients of banks, flow controls for discharge and full details of any other attenuation proposed
 - calculations demonstrating no increase in surface water rates and volumes up to the 1 in 100 plus 40% climate change storm events. No on site flooding up to the 1 in 30 storm event and any on site flooding between the 1 in 30 and 1 in 100 storm events will be safely contained on site mitigation of the residual risk / overland flows
 - a detailed maintenance schedule for the SUDS drainage system including ownership responsibilities demonstrating that the future maintenance of the SUDS has been secured
- 8) Before work starts on the construction of the dwellings hereby approved, details of (i) the predicted energy use of the development; and (ii) the type(s) of low or zero carbon technologies to be used, have been submitted to, and approved in writing by, the local planning authority. These details will demonstrate how the development will achieve at least a 10% reduction in carbon emissions. Such details as may be approved

- shall be implemented prior to the first occupation of the development and retained and maintained for the lifetime of the development.
- 9) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.
 - 10) The proposed vehicular access and the improvements to the roundabout junction to Guildford Road shall be designed and constructed prior to the implementation of the development. No development shall begin before the roundabout junction and access road have been completed broadly in accordance with Drawing No. 5013:RB1 and the requirements of the County Highway Authority. Once constructed the access shall be retained free of obstruction and thereafter permanently maintained.
 - 11) No development shall commence until a Construction Transport Management Plan, to include details of:
 - (a) parking for vehicles of site personnel, operatives and visitors
 - (b) loading and unloading of plant and materials
 - (c) storage of plant and materials
 - (d) programme of works (including measures for traffic management)
 - (e) provision of boundary hoarding behind any visibility zones
 - (f) on-site turning for construction vehicles
 - (g) hording of the site has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.
 - 12) The development hereby approved shall not be occupied until:
 - a) an uncontrolled pedestrian crossing shall be provided on Guildford Road between the proposed pedestrian access to the site and Ash Rail Station has been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority but generally in accordance with Drawing No. 5013-601
 - b) the two bus stops on Guildford Road o/s Ash Hill Road (E-bound) and opposite Ash Hill Road (W-bound), have been provided with Disability Discrimination Act compliant kerbs with 140mm upstand, raised footways and a power supply for the new bus shelters
 - c) the eastern side of the footway along Guildford Road from the development to Ash Station has been widened to provide a continuous shared pedestrian/cycle link facility from Dean Close to Ash Station in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. This requires a reduction in width of the proposed lay-by for the re-sited bus stop on the southern side of Guildford Road.
 - 13) The development shall be undertaken in accordance with the recommendations of the Ecology Appraisal dated September 2014 and additional recommendations set out in the letter from ACD Ecology dated 8th December 2014. There shall be no variation from the approved

recommendations unless first agreed in writing with the Local Planning Authority.

- 14) Prior to the first occupation of the development, biodiversity enhancement measures shall be implemented on site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail measures to increase the biodiversity and ecology value of the site and detail how the site is to be managed and maintained for the benefit of biodiversity.
- 15) Prior to the commencement of development, details of the finished floor levels of the proposed dwellings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Richborough Estates