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## Appeal Decision

Inquiry held on 6-9 November 2018 and 4 February 2019

Site visit made on 5 February 2019

**by Michael Boniface MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15<sup>th</sup> February 2019

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**Appeal Ref: APP/Q3630/W/18/3195463**

**Oak Tree Nurseries, Stroude Road, Virginia Water, GU25 4DB**

- 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 Retirement Villages Developments Ltd & Hamlin Estates Ltd against the decision of Runnymede Borough Council.
  - The application Ref RU.17/0668, dated 25 April 2017, was refused by notice dated 3 November 2017.
  - The development proposed is redevelopment of the former Oak Tree Nurseries site to consist of a residential care home facility (40 beds) together with an extra care development (up to 110 units comprising of apartments and cottages) all within use class C2; associated communal facilities; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is submitted in outline form with only the matter of access to be determined. Matters of appearance, landscaping, layout and scale are reserved for subsequent consideration.
3. Amended plans were submitted during the course of the appeal, reducing the number of proposed units from 50 and 130 respectively, as shown in the heading above. The Council raised no objection to the amendments forming part of the appeal and undertook public consultation. I am satisfied that no party would be prejudiced by these amendments and the Inquiry went on to consider the revised scheme.
4. Prior to the Inquiry the Council accepted that the proposed development falls wholly within a C2 use class and that no affordable housing contributions should be sought. It also accepted that significant effects on the Thames Basin Heaths Special Protection Area (SPA) could be mitigated by securing Suitable Alternative Natural Greenspace (SANGS) and a Strategic Access Management and Monitoring (SAMM) contribution. This was subsequently secured through a planning obligation and SANGS Consent. As such, the Council were satisfied that its third and fourth reasons for refusal had been overcome so that it was not necessary to hear evidence on these matters, albeit that Appropriate Assessment would be necessary before the appeal could be allowed.

## Main Issues

5. The appellant accepts that the proposal would constitute inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and that openness would be harmed.
6. In light of the above, the main issues are:
  - (a) The extent to which the development would harm the openness of the Green Belt and/or conflict with its purposes;
  - (b) The effect on the character and appearance of the area;
  - (c) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

### *Green Belt*

7. The site falls wholly within the Metropolitan Green Belt (GB). Policy GB1 of the Runnymede Borough Local Plan, Second Alteration (2001) (LP) restricts development in the Green Belt that would conflict with its purposes or harm openness. The appellant accepts that this policy is broadly consistent with the Framework and should be afforded full weight. I have no reason to disagree.
8. A significant amount of time was spent discussing the merits of the GB designation, particularly in the context of the site. The Framework is clear that, once established, Green Belt boundaries should only be altered in exceptional circumstances through the preparation or updating of plans. Such matters are squarely for the plan making process. Green Belts are designated with longevity or permanence in mind as it is expected that they will endure beyond the end of the plan period. That is the case here, the Green Belt having been designated in 1986.
9. That being the case, I do not accept that the boundaries are reflective of the development needs at the time the LP was adopted. In fact, the GB designation long pre-dates the current development plan period and I have seen little to suggest that the GB boundary is any less important or relevant now to when it was first designated, particularly having regard to the examining Inspector's reasoning at the time of designation<sup>1</sup>.
10. The Council now accepts that it will need to release some sites from the GB in order to meet the development needs anticipated in the emerging Runnymede 2030 Submission Local Plan (July 2018) (emerging LP). The examination of this plan is the proper forum for considering changes to the GB boundaries in a strategic and comprehensive manner. The emerging LP has been submitted for examination and hearing sessions are underway. This matter does not diminish the weight that I attach to Policy GB1 or the level of protection that the GB ought to receive.
11. It is notable that the Council has undertaken a review of the GB in support of the emerging LP<sup>2</sup>. Whilst identifying that Stroude Road is very urban in appearance it, quite reasonably in my view, concludes that the ribbon

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<sup>1</sup> Paras. 47-53 and 76-79 of Inspector's Report (Appendix 1 to Rebuttal evidence of Georgina Pacey)

<sup>2</sup> Green Belt Review, Methodology & Assessment (2014); Green Belt Review Part 2 Report (2017); and Green Belt Village Review, Stage 1 Update (2018)

development protruding beyond the main body of the settlement of Virginia Water should not be seen as an integral part of the settlement. Again, this is consistent with the conclusions of the Inspector at the time of designating the GB. Only modest development has taken place since this time and Stroude Road remains a linear development of predominantly detached and semi-detached dwellings with gaps between providing views of open areas and tree planting. I have had regard to the extensive amount of evidence provided by the appellant as to the merits of the Stroude Road area and the land in the vicinity of the site as part of the GB, but for the reasons I have set out, attach it very little weight.

12. The appellant points out that the emerging LP should currently attract very limited weight given its stage of preparation and the existence of unresolved objections. I agree. The exceptional circumstances necessary to remove sites from the GB are yet to be demonstrated at examination and the principle of the emerging LP's approach is uncertain. I acknowledge that the Council has been slow to produce a new local plan, highlighted by the Secretary of State considering intervention in Runnymede. Whilst highly undesirable given that maintaining an up-to-date development plan is a requirement of the Framework, this is not a matter that alters my conclusions on the GB effects.
13. The Government attaches great importance to GB. The fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of GB being their openness and permanence. Inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances. The proposal involves a number of large buildings and constitutes inappropriate development.
14. It is common ground that the existing buildings and use of the site are not inappropriate development in the GB and that the site should not be regarded as previously developed land (save for the existing dwelling). In this context, the existing structures, largely comprising glass houses and polytunnels for growing strawberries, should not be seen as harmful to the purposes or characteristics of the GB. They are structures that one might expect to find in a rural area or the GB and that are not seen as inappropriate in policy terms.
15. The effect on openness should be considered against this baseline. The proposed development would introduce a substantial amount of built form spread across the site and potentially up to three storeys in height. This would have a significant and harmful effect on the openness of the GB both from a spatial and visual perspective. Introducing such a volume of development on a part of the GB currently covered by low level and not inappropriate structures would unavoidably harm openness as a matter of fact. Whilst the site is very well screened from the public realm, the development would be visible, particularly from the adjacent allotments, the public footpath to the south, through gaps between buildings on Stroude Road and in the vicinity of the site access where a large concentration of development is indicatively shown in a part of the site only sparsely developed at present.
16. Mr Clark suggests that there would be no harm to GB purposes as a result of the appeal. That is not a credible position in my view and contrasts with the opinion of Mr Warner for the appellant. The appeal site, by virtue of its open nature (albeit with the presence of buildings and polytunnels that are not inappropriate in the GB) clearly contributes to the characteristic openness of

the GB and its role in maintaining such openness between settlements and preventing merging. Development of the appeal site would not result in a direct coalescence with nearby towns such as Thorpe or Egham but it would diminish the gap and erode the open nature of the GB, harming the perception of defined settlements. I come to this conclusion despite, and to some extent because of, the relatively fragmented development in the area, the existence of a Landscape Problem Area designation and the well-defined boundaries surrounding the site comprising woodland and a watercourse.

17. The site also falls in the countryside, being outside the defined urban area of Virginia Water. Development of the site, quite intensively, could do little else but encroach on the countryside. The site is currently used for horticulture/agriculture but the structures on site are in no way comparable to that being proposed. The development would have an unavoidably urbanising effect on the ribbon development that is Stroude Road that could not be said to safeguard the countryside from encroachment. There is, therefore, clear conflict with GB purposes.
18. The development is in conflict with Policy GB1 of the LP. I attach substantial weight to this conflict and the harm arising to the GB and its purposes by virtue of the development's inappropriateness and effect on openness.

#### *Character and appearance*

19. The site currently accommodates a range of buildings and structures in connection with the existing strawberry growing business. The buildings are utilitarian in appearance but are generally modest in height and visually contained within the site owing to the surrounding development and extensive tree belts and landscaping on the peripheries of the site. Some caravans were on site at the time of my visit and there was some external storage of materials associated with the use on site. This created an untidy appearance but again, was not prominent from outside the site.
20. It is not in dispute between the parties that the site is very well screened and that the effect on the character and appearance of the area would be extremely localised. This is demonstrated in the appellant's Landscape and Visual Impact Assessment (February 2017) and in subsequent evidence. Despite this, the scheme would have a significant impact on the character and appearance of the area in the vicinity of the site.
21. The number of residential units has been reduced since the Council considered the original planning application and greater separation distance has been shown on the indicative drawings from the surrounding tree planting on the boundaries of the site. The submitted Arboricultural Impact Assessment (July 2018) and Addendum (October 2018) demonstrate that the amount of development proposed could be accommodated within the site without detriment to any trees of significance and that management and maintenance of the surrounding tree belts could improve their appearance and avoid pressures for removal from future occupants. I have seen no evidence from the Council that calls these conclusions into question.
22. Whilst this is so, the indicative drawings are predicated on development up to three stories in height, many of which would be grouped together into large blocks or terraces. It is difficult to reconcile this form of development with the relatively low density, predominantly two storey detached and semi-detached

- dwelling along Stroude Road. The height, scale and mass of the buildings would be significant and would be seen behind the existing properties along Stroude Road with some prominence. The scheme would not reflect the scale, height and form of the surrounding area and would have a significantly urbanising effect. I share the Council's concern that the nature of the proposed development would consequently appear excessive and cramped in its context.
23. I appreciate that the indicative drawings are just that, and that the final scheme could involve a reduced number of units. There are also a variety of means to minimise the scale, height and mass of buildings at the design stage. However, I must consider the scheme before me and it is appropriate to place some reliance on the indicative drawings provided by the appellant.
24. I heard detailed evidence as to the nature of the scheme and the sufficiency of building separation distances. In the absence of any contrary detailed evidence from the Council I do not question these and am satisfied that a scheme could be designed so as to ensure appropriate living conditions for future occupants. However, I am not persuaded that the number of units sought could be satisfactorily accommodated within the site given the constraints of the surrounding trees and having regard to the character of the area. I am not reassured by the indicative proposals.
25. The Council raised further concerns about the amount of parking proposed within the scheme which is indicated to be at a level of around 1 space per apartment/cottage, informed by the appellant's experience at similar schemes. The Council made no reference to parking standards or other evidence to indicate that this level of provision was excessive or that it could not be sensitively incorporated into the scheme as part of the detailed design process. In addition, the final amount of parking is likely to be established once the number and type/mix of accommodation is finalised. Given the well contained nature of the site and the opportunity to consider parking at the reserved matters stage, I do not consider that parking would compromise the design of the development or further harm the character and appearance of the area.
26. It was also suggested that the development might harm the living conditions of existing occupants but this was not substantiated in any evidence before the Inquiry. The site is well removed from neighbouring residential properties and I see no reason why appropriate living conditions could not be maintained through sensitive design at the reserved matters stage.
27. Overall, I accept that the wider landscape and visual effects of the development would be negligible. However, the scheme would harm the character and appearance of the area for the reasons I have set out. This would be in conflict with Policy HO9 of the LP, which requires sensitively designed proposals that protect local character. As these objectives are consistent with those of the Framework I attach significant weight to this harm.
28. In light of my conclusions regarding potential impacts on trees and noting that a detailed landscaping scheme would form part of the considerations at the reserved matters stage, I find no conflict with Policies NE14 or NE15 of the LP.

### **Other considerations**

29. The appellant identifies a range of other considerations that are said to be in favour of the proposed development. These include health and wellbeing

benefits for future occupants and financial benefits to society at large from reduced pressures on health care facilities by those whose needs would be met by the specialist housing proposed; freeing up existing family housing in the area through local people downsizing into the proposed units; potential improvement to the Landscape Problem Area; as well as employment creation such as staffing the development and in the construction industry.

30. Particular emphasis was placed on the need to deliver housing, including the specialist accommodation being proposed. It is agreed between the parties that the Council can currently demonstrate a 2.98 year housing land supply, well below the requisite five year supply. This is based upon the need established by the Council in the latest Strategic Housing Market Assessment<sup>3</sup> which is informing the emerging LP. There is little evidence before me as to why this evidence of need is to be favoured over the local housing need established through application of the standard method, as advocated by the Framework. However, whichever method is used, the Council cannot demonstrate a deliverable five year housing land supply. This is indicative of a need for more housing in Runnymede.
31. The proposed development would contribute towards housing needs in the area and would deliver a range of specialist housing options for older people. There is no doubt that this would be a benefit and occupation of such housing by local people would be likely to free up existing housing stock, assisting the wider market. The parties were unable to agree the extent of need for older people's accommodation in the area, specifically the need for Extra Care accommodation on a leasehold basis. This is relevant in the local context because Virginia Water has a high proportion of older people and also a much greater propensity for home ownership as opposed to renting.
32. The Council relied on online tools to establish the need for this type of accommodation, a method supported by Planning Practice Guidance. This was criticised by the appellant as projecting past trends forward into the future rather than carrying out any bespoke assessment of what actual needs are likely to be as the appellant does. A considerable amount of evidence was presented on this topic and the forward supply of Extra Care accommodation in the area was also debated. The appellant accepted, however, that unmet housing need will rarely amount to very special circumstances in itself.
33. It is not necessary for me to reach a conclusion on the need and supply of this type of housing because even if I were to accept the appellant's position on these matters, together with the other considerations in favour of development identified, these would attract no more than significant weight cumulatively. This would not be sufficient to outweigh the GB harm alone, let alone the cumulative harm that I have identified.
34. In reaching this conclusion I have had regard to the fact that the emerging LP is currently being examined and that this will plan to meet local housing needs following a thorough and comprehensive assessment. The emerging LP is currently expected to be adopted in Summer 2019 but even if this date were to slip, the issue is likely to be addressed relatively soon. In contrast, harm to the GB would be permanent.

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<sup>3</sup> Strategic Housing Market Assessment (November 2015) and Strategic Housing Market Assessment - Update (January 2018)

35. It was said that the appeal site is in a sustainable location for the proposed development and I do not disagree. It is in close proximity to bus stops for accessing services and facilities and a community minibus is proposed. Virginia Water railway station is also around 1.5km away. However, this is not a benefit of the development that should attract positive weight. Appropriate access to services and facilities is a policy expectation for any significant development. Therefore, this is a neutral matter in my considerations.
36. Similarly, the absence of an up-to-date local plan is not a matter that weighs in favour of the development. The Council accept that the LP is time expired, the plan period having ended in 2006. However, the Framework is clear that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Indeed, the Council is not relying on any policies that might be affected by the dated nature of the plan. The policies relied upon in refusing planning permission relate to GB protection and design matters. I have found these policies to be entirely consistent with the Framework. Under these circumstances I see no reason why the weight ascribed to them should be reduced or that any favour for the scheme should be induced.
37. I have had regard to a recent appeal decision involving Extra Care accommodation at West Malling (APP/H2265/W/18/3202040) but the proposed development and site circumstances are different to this appeal. That site is in a different part of the country with different housing needs and where an entirely different development plan applies. The full details of that case are not before me and so I cannot conclude that there are any meaningful comparisons to be made. I have determined the current appeal on its own merits.

### **Planning Balance**

38. I have concluded that the development would harm the GB and this harm attracts substantial weight. In addition, I have attached significant weight to the harm that would result to the character and appearance of the area. I have had regard to the considerations in favour of the development which I have attached significant weight but these are not sufficient, even cumulatively, to outweigh the harm. Consequently, the very special circumstances necessary to justify the proposed development have not been demonstrated.

### **Conclusion**

39. Although the proposal accords with many of the current development plan policies, it would be in conflict with the development plan taken as a whole given the fundamental conflict with the principles of GB protection and ensuring good design that preserves local character. As the development would harm the GB, the Framework's presumption in favour of sustainable development does not apply. There are no material considerations in this case that indicate a decision other than in accordance with the development plan.
40. In light of the above, and having considered all other matters, the appeal is dismissed.

*Michael Boniface*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Caroline Bolton of Counsel

She called:

Paul McColgan	Associate Director, GL Hearn
Georgina Pacey BSc (Hons) MSc MRTPI	Local Plans Manager
Janine Wright MSc	Senior Planning Officer

### FOR THE APPELLANT:

Christopher Young QC

He called:

Nigel Appleton	Executive Chairman, Contact Consulting Ltd
James Donagh BA (Hons) MCD MIED	Director, Barton Willmore
Guy Flintoft BA (Hons) DipTP DipUD MRTPI	Planning Director, Retirement Villages
Patrick Clark BA MA Lsc Arch CMLI	Associate Landscape Planner, Barton Willmore
Peter Morgan BA Arch (Hons) Dipl Arch RIBA	Managing Director, Thrive Architects
Iain Warner BSc (Hons) DipTP MRTPI	Director, Tetlow King Planning

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

- 1 Screen Print from HOPSR Report
- 2 Delegated Report (18/01678/FUL)
- 3 Appellant's Opening Statement
- 4 Council's Opening Submissions
- 5 E-mail from Linda Barron (interested party representation)
- 6 Note on available capacity of registered care home beds
- 7 Agreed list of conditions
- 8 Minimum Local Housing Need – Standard Method Calculation
- 9 Updated Table 18 from Nigel Appleton Needs Assessment
- 10 Draft S106 agreement



- 11 Statement of Common Ground
- 12 Potential levels of provision of leasehold extra care units
- 13 E-mail from Jessica James, Natural England regarding AA
- 14 Further draft S106 agreement
- 15 Draft SANGS Consent
- 16 Completed SANGS Consent
- 17 Five year housing land supply calculation (appellant's calculation)
- 18 Letter dated 24 January attaching appeal decision (APP/H2265/W/18/3202040) and letter from Housing LIN
- 19 Completed S106 agreement
- 20 Extract from Landscape and Visual Appraisal in West Malling
- 21 Council's Closing Submissions
- 22 Appellants' closing submissions

Richborough Estates