



Appeal Decision

Site visit made on 3 November 2015

by L Gibbons BA (Hons) MRTPI

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

Decision date: 08/12/2015

Appeal Ref: APP/Y3615/W/15/3132375

Land at Spoil Lane, Tongham, Guildford Surrey

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Taylor Wimpey UK Ltd against the decision of Guildford Borough Council.
 - The application Ref 15/P/00167, dated 23 January 2015, was refused by notice dated 7 July 2015.
 - The development proposed is the erection of 26 dwellings with access from Tongham Copse, together with associated landscaping and open space.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 26 dwellings with access from Tongham Copse, together with associated landscaping and open space at Land at Spoil Lane, Tongham, Guildford Surrey in accordance with the terms of the application, Ref 15/P/00167 dated 23 January 2015, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Taylor Wimpey UK Ltd against Guildford Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The proposal is accompanied by a Section 106 (s106) agreement dated 15 September 2015 which provides for contributions for byway improvements and the provision of affordable housing. It also provides for contributions towards the mitigation of the effects of the proposed development on the Thames Basin Heaths Special Protection Area (TBHSPA). The Council have confirmed that they no longer wish to defend reason for refusal 2 and 3 relating to these matters. I have written to the parties with regard to Regulation 123 of the Community Infrastructure (CIL) Regulations 2010. I return to this matter below.

Background and Main Issue

4. Paragraph 47 of the National Planning Policy Framework (the Framework) indicates that in order to boost significantly the supply of housing, local planning authorities should ensure that they meet their full and objectively assessed housing needs for market and affordable housing. The Council indicate that it cannot demonstrate a five year supply of housing land.

5. The Framework establishes that sustainable development should be seen as a golden thread running through both plan-making and decision taking. Furthermore, in the absence of a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up to date.
6. The appeal site is located in the countryside. Saved Policy RE4 of the Guildford Borough Local Plan (LP) 2003 sets out that development in the countryside beyond the Green Belt will be resisted unless a number of criteria are met. It also allows for affordable housing in certain circumstances. I therefore consider it is a relevant policy for the supply of housing. In the light of this, I conclude that little weight should be attributed solely to the site being located in the countryside. In addition, the Council's officer report refers to the LP as not providing up to date allocations or housing requirements. In these circumstances, paragraph 14 of the Framework sets out how the presumption in favour of sustainable development should be applied and indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
7. Taking the above into account the main issue is whether the proposed scheme would comprise a sustainable form of development with particular regard to the layout and design of the proposed affordable housing units.

Reasons

8. The Framework identifies three dimensions to sustainable development – economic, social and environmental. The Framework makes it clear that the three roles the planning system is required to perform in respect of sustainable development should not be undertaken in isolation because they are mutually dependent.
9. In terms of the economic role the proposal would result in the much needed delivery of housing within the area. The site would also be available now and could be brought forward within a five year period. The proposal would provide temporary construction jobs during the construction phase and new residents would contribute to local spending.
10. In terms of the social role the proposal would provide 9 affordable homes and I attach substantial weight to this matter. I acknowledge the concerns of local residents that the area has received its fair share of development, causing harm in terms of inadequate parking and highway safety. The Council and the Highways Authority do not object to the amount of parking and the proposed access subject to suitable conditions. I consider there would be no harmful impact in this case. The site is also located close to public transport routes. The improvements to the byway would be of some benefit.
11. In respect of the environmental role the Council considers that the overall design of the proposal would not cause harm to the character and appearance of the area. The proposal would result in some loss of open countryside and this weighs against the scheme.
12. The Council considers that the arrangement and design of the proposed affordable housing units would be unacceptable. I have been referred to the Council's Residential Design Guide Supplementary Planning Guide (SPG) 2004. At paragraph 5.22 this refers to affordable housing in larger scale

developments which should not be identifiable through design, location or segregation. The proposed affordable dwellings would be located along the southern part of the site. I note that in respect of the adjacent scheme at Tongham Copse the blocks of affordable housing units were designed to go around corners. The Council consider that the arrangement in those cases would make it harder to distinguish between the private and affordable housing units.

13. Plots 7 to 9 of the affordable housing units would be visible in the context of the whole scheme when seen from the access road. A significant number of the occupiers of the private market housing would be able to see these plots or have to pass by them to reach their homes. Plots 25 and 26 which would be private market housing would be located opposite some of the affordable housing units and there would be integration in this respect. The landscaping and layout of car parking between the smaller private housing units and the affordable housing units would be similar. The layout of the development would ensure that segregation and isolation between the private and affordable housing would not occur.
14. The design of the proposed housing varies throughout the scheme. The design of the affordable houses would result in a simple appearance. However, there would be some design details such as porch canopies and brickwork above the windows on the ground floor. Some of these characteristics would be found within the designs of the proposed private market housing. Whilst they would not have dormer windows or tile hanging, I consider that the affordable housing units would have a similar quality to the private housing including the types of materials to be used. This is particularly the case as some of the designs of the private housing units are also simple. The affordable housing units would not appear out of place within the wider scheme. The design would relate well to the affordable homes at Tongham Copse and the context of the design of houses within the surrounding area, which are mainly simple in appearance.
15. The Council refer to the reduced spacing and smaller gardens for plots 5 to 9 in particular. However the garden size and spacing would be similar to the arrangement of Plots 22 to 24 which would be private market dwellings. It would therefore be acceptable in this respect.
16. I conclude that the proposed development would not be contrary to saved policy G5 of the LP which amongst other things seeks new development that respects established street patterns, plot sizes and the scale, height and proportions and materials of the surrounding environment. It would not be contrary to the SPG. It would also not be contrary to the Framework in respect of the need for high quality design and it would accord with the principle of creating mixed and balanced communities.
17. The adverse effects of the scheme would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Of particular importance is the provision of market and affordable homes which would address the housing need within the Borough and would help to reduce the housing land supply deficit. In accordance with paragraph 14 of the Framework the proposal would be sustainable development to which the presumption in favour applies.

18. The Council's decision notice refers to saved policy G1 of the LP of which there are a number of separate elements. However, these are general policies and do not demonstrate or substantiate harm in relation to inclusive and mixed communities.

Other matters

19. I have considered the s106 agreement in the light of the statutory tests contained in Regulations 122 and 123 of the CIL Regulations and the tests at paragraph 204 of the Framework. The provision of affordable housing would be in accordance with saved Policy H11 of the LP. The contributions towards the byway improvements would also be necessary taking into account the likely use of the byway by future occupiers and that it is adjacent to the appeal site.
20. The requirements for contributions to mitigate the impact of the development on the TBHSPA would be in accordance with the measures set out in the Council's TBHSPA Avoidance Strategy. Contributions would be towards a local Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM). The sums sought would be reasonably related in scale and kind to the proposed development and would satisfy the tests in the Framework and Regulation 122.
21. In April 2015 Regulation 123(3) of the CIL regulations came into effect, this restricts the pooling of more than five planning obligations towards infrastructure. The Council refer to a new SANG at Ash Lodge Drive and that the contribution would be towards maintenance and improvement. No other contributions have been received for this site. Based on the evidence before me, I am satisfied that the contribution would be in accordance with Regulation 123. The contribution towards SAMM this would not constitute the provision of infrastructure and so would not be affected by the pooling restrictions. I have therefore taken the s106 agreement into account in coming to my decision.
22. Local residents have raised concerns in respect of flood risk. The proposal is accompanied by a Flood Risk Statement and the site is not within an area at risk of surface water flooding and is an area with a low risk of flooding from rivers. The Council do not object to the proposal subject to a suitable condition. Based on the evidence before me I see no to disagree with these matter.

Conclusion and conditions

23. I have considered the conditions in the light of the tests set out in paragraph 206 of the Framework and the Planning Practice Guidance. I have amended the conditions where necessary for the purposes of clarity. For the avoidance of doubt and in the interests of proper planning, a condition is necessary specifying the approved plans.
24. The Council have suggested a condition relating to the delivery of the SANG in terms of commencement of development and occupation of the houses. I agree it would be necessary to ensure that the development does not cause harm to the TBHSPA. There is also a reasonable prospect that the SANG would be in place within the relevant timeframe. Conditions relating to external materials, site levels and ridge heights, trees, landscaping, boundary treatments and lighting are all necessary to protect the character and appearance of the area. In order to protect the living conditions of adjoining

occupiers, conditions are necessary in relation to obscure glazing for Plot 14 and in specifying the hours of construction. A condition relating to the provision of the play area is also needed to ensure that this is provided for the future occupiers.

25. In the interests of highway safety conditions relating to submission of a construction management plan and the provision of parking spaces are needed. In the interests of sustainability a condition relating to the submitted Energy Statement is needed. In the interests of preventing flood risk a condition relating to surface water and foul drainage is needed. With respect to biodiversity conditions relating to the submitted ecological appraisal and the translocation of slow worms are necessary.
26. For the above reasons and having regard to all other matters raised, I conclude that subject to the conditions set out in the attached schedule the appeal should be allowed.

L Gibbons

INSPECTOR

Richborough Estates

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LP.01; SE.01; 94695.04.0001; 94695.04.0002; AA23.e; AA23.p; P7-9.e Rev A; P7-9.p Rev A; AA31.e; AA31.p; CROFT.e; CROFT.p; EAST.e; EAST.p; GA01.pe Rev A; GA02.pe Rev A; GA03.pe; LANG.e; LANG.p; SHEL.pe Rev A; P22-24.e; P22-24.p; KENT.pe; CSL.01; AS.01; AHL.01 Rev B; PP.01 Rev B; DML.01 Rev C; RP.01 Rev A; BML.01 Rev C; SL.01 Rev H; CSa/2528/101 Rev B and CSa/2528/102 Rev B.
- 3) No development shall take place until written confirmation has been obtained from the local planning authority that the Council has secured Suitable Alternative Natural Greenspace (SANG) and no dwelling shall be occupied before written confirmation has been obtained from the local planning authority that the works required to bring the land up to acceptable SANG standard have been completed.
- 4) No development shall take place until details and samples of the proposed external facing and roofing materials including colour and finish of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples.
- 5) No development shall take place until details of existing and proposed finished site levels, finished floor levels and ridge levels of the buildings to be erected, and finished external surface levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until details of the proposed Local Area for Play have been submitted to and approved in writing by the local planning authority. Such details shall include layout, surfacing, fencing and details of equipment. The development shall be carried out in accordance with the approved details prior to the occupation of the 26th dwelling or in accordance with a timescale that has first been agreed in writing by the local planning authority.
- 7) No development shall take place until an Arboricultural Method Statement (detailing all aspects of construction and staging works) and a Tree Protection Plan in accordance with British Standard 5837:2012 (or any later revised standard) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed method statement and no equipment, machinery or materials shall be brought on to the site for the purposes of the development until fencing has been erected in accordance with the Tree Protection Plan. Within any area fenced in accordance with this condition, nothing shall be stored, placed or disposed of above or below ground, the ground level shall not be altered, no excavations shall be made, nor shall any fires be lit, without the prior written consent of the local planning authority. The fencing shall be maintained in accordance with the approved details, until all equipment, machinery and surplus materials have been moved from the site.

- 8) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be implemented during the construction of the development. The Plan shall provide for:
 - i) the parking of vehicles of site personnel, operatives and visitors;
 - ii) loading and unloading of materials; and,
 - iii) storage of plant and materials.
- 9) Prior to the occupation of the dwellings hereby approved, space shall be laid out within the site in accordance with drawing CSL.01 for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purpose.
- 10) The development shall be carried out in accordance with the submitted Surface Water Drainage Strategy and Foul Water Drainage Strategy contained within the Flood Risk Statement ref Q532-02A (Arden Consulting Engineers), and additional details contained within correspondence with the Drainage Engineer dated 17/03/2015.
- 11) The development hereby approved shall be carried out in accordance with Section 5: Discussions and Recommendations of the submitted Ecological Appraisal ref CSa/2528/01 (CSa Environmental Planning, November 2014).
- 12) No development shall take place until full details of the proposed translocation of slow worms referenced within the submitted Reptile Survey Report ref 6777.RepSur.dv2 (Ecology Solutions Limited, June 2015) has been submitted to and approved in writing by the local planning authority. The details must follow best practice guidelines, where translocation will need to be undertaken prior to any site clearance. The translocation must then be carried out in accordance with the agreed details.
- 13) Works relating to the construction of the development hereby permitted, including works of demolition or preparation prior to building operations, shall not take place other than between the hours of 0800 to 1800 Monday to Fridays and between 0800 and 1300 on Saturdays and at no time on Sundays or Bank or National holidays.
- 14) All planting, seeding or turfing detailed within the submitted landscape scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years after planting are removed, die or become seriously damaged or diseased in the opinion of the local planning authority, shall be replaced in the next available planting season with others of similar size and species, unless otherwise agreed in writing by the local planning authority.
- 15) A landscape management plan covering a period of no less than 10 years, including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development or any completed phase of the development, whichever is the sooner.

- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls or other means of enclosure shall be erected other than those approved as part of the Boundary Materials Plan ref BML.01 Rev C.
- 17) Prior to the first occupation of the dwellings hereby approved full details of how existing boundary treatments will be dealt with to ensure strong linkages between the site and the neighbouring site to the north and west will be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 18) The first floor bathroom window in the south side elevation of Plot 14 of the development hereby approved shall be glazed with obscure glass and permanently fixed shut, unless parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and shall thereafter be permanently retained as such.
- 19) The development hereby permitted shall be carried out in accordance with the submitted Energy Statement (Energist UK, December 2014) which shows a minimum of 10% reduction in carbon emissions from the use of on siteovoltaics unless an alternative scheme is submitted to and approved in writing by the local planning authority. The scheme must be implemented prior to occupation and maintained for the lifetime of the development.
- 20) No development shall commence until a detailed lighting strategy is submitted to and approved in writing by the local planning authority. Only the approved details shall be implemented.

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