



Appeal Decision

Site visit made on 15 June 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2021

Appeal Ref: APP/Y3615/W/21/3267871

Land to the rear of 5 Send Barns Lane, Guildford, Surrey GU23 7BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Denton Homes against the decision of Guildford Borough Council.
 - The application Ref 19/P/02149 is dated 29 November 2019.
 - The development proposed is 28 dwellings with associated landscaping and parking following the demolition of 5 Send Barns Lane. Creation of a new access off Send Barns Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form, with access to be considered as part of this proposal. I have dealt with the appeal accordingly.
3. I have taken the description of development from the appeal form and decision notice, since this more accurately reflects the proposal than that contained within the planning application form. I have deleted the words "*outline application for*" and "*all matters reserved except access*", since they are not descriptive of the development proposed.
4. I have noted that the appellant details on the appeal form comprising Mr Richard Skelley (Denton Homes) differs from the applicant details on the application form, which is Nichola Humphrey (Denton Homes Ltd). I have dealt with the appeal on the basis that the appellant is Denton Homes.
5. Since the refusal of the planning application and the submission of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. The main parties were given the opportunity to address this matter, and I have taken this into account where relevant to my decision.
6. Whilst the reason for the appeal was the failure of the Council to give notice of its decision within the appropriate period, the Council did issue a notice of refusal dated 24 February 2021, after the submission of the appeal, which sets out the Council's objections to the appeal scheme.
7. The Council's second reason for refusal on the decision notice relates to inadequate survey information to fully assess the impact of the proposal on

protected species and appropriate mitigation measures. The Council has confirmed that these matters related to the potential impact of the proposal on reptiles and bats. Following the outcome of bat emergence surveys and the proposed inclusion of an area of reptile habitat to be located outside of private gardens, the Council, in its Written Representations, has confirmed that this matter is now capable of being dealt with by means of conditions to ensure appropriate biodiversity compensation, mitigation and net gain. As such, the Council does not wish to pursue the second reason for refusal. On the basis of the evidence before me, I have no reason to disagree, and I have dealt with the appeal accordingly.

8. Since the submission of this appeal, the appellant has submitted a formally completed unilateral undertaking (UU), pursuant to section 106 of the Town and Country Planning Act 1990, signed and dated 20 July 2021, in respect of the provision of affordable housing and contributions towards education, highways, open space, Suitable Alternative Natural Greenspace (SANG), and Strategic Access Management and Monitoring (SAMM) of the Thames Basin Heaths Special Protection Area (TBHSPA). These are matters to which I later return.

Application for costs

9. An application for costs was made by Denton Homes Ltd against Guildford Borough Council. This application is the subject of a separate Decision.

Main Issues

10. Having regard to the above, and the submissions from the main parties, including the Council's Officer's Report and Written Representations, the main issues are:
 - The effect of the appeal scheme on the character and appearance of the area;
 - Whether the appeal scheme makes an appropriate contribution towards affordable housing; and
 - Whether the appeal scheme would provide adequate mitigation for the TBHSPA.

Reasons

Character and appearance

11. The appeal site is located on the northeast side of Send Barns Lane and comprises the site of a detached two-storey house which fronts onto, and has vehicular access from, the road, together with a large, land-locked, irregular-shaped area of undeveloped and largely overgrown land to the rear. The host property forms part of a ribbon development of residential properties extending along both sides of Send Barns Lane, including dwellings to both sides of the site. The site is bounded by the rear gardens of residential properties in Send Marsh Road and Send Barns Lane as well as undeveloped open countryside, reflecting the prevailing semi-rural nature of the area. The Council has confirmed that the site has been inset from the Green Belt.
12. Residential development of the site is acceptable in principle, and the appeal proposal is in outline, with only access under consideration. Notwithstanding

this, I need to be assured that the site is capable of accommodating the proposed number of dwellings in a manner which would respond positively to the features of the appeal site itself and the surrounding context beyond the site boundary, and that the development is capable of combining layout, form and scale in a way that would respond positively to the site context, as required by the *National Design Guide 2019* (NDG).

13. The area is characterised by residential development directly fronting Send Barns Lane, Send Marsh Road and Send Hill, together with tributary short residential roads leading off these village spine roads. This residential development is set within a green backdrop of undeveloped land, to which the majority of the appeal site currently contributes, so that the area has a strong semi-rural character. A loose-knit urban grain exists within the village, with a variety of dwelling types and a prevalence of soft landscaping within plots, reflecting the proximity of the built development to open countryside.
14. The indicative layout plan proposes to introduce an urbanising form of development onto the site, which would be strongly at odds with the semi-rural character of the area. The proposed straight, dense and regular arrangement of the majority of the new dwellings within a long L-shaped access road would be out of keeping with the more informal, loose-knit, spacious layout of built development which prevails within the locality.
15. The amount of building footprint of the proposed dwellings and the significant amount of space taken up by the access road, parking and turning areas, means that built development would dominate the scheme, to the detriment of the semi-rural character of the area. This would be particularly evident within the street scene, since a large number of the dwellings would have frontages which are dominated by hardsurfaced parking, with little room for any meaningful frontage landscaping. Parking would also dominate the approach to the flats block in the northernmost corner of the site, with parking and hardstanding 'wrapping around' plots 7 – 10. In addition, it appears from the evidence before me, that it is likely that the development will require additional visitor car parking, of an amount which has not yet been determined by the Council.
16. Tandem parking to the side of a number of the dwellings would result in built development extending across the full width of a number of the plots. This, combined with the semi-detached nature of the majority of the houses, and the narrow spacing between these houses and their side boundaries, would give rise to a cramped and formal arrangement of buildings. This would be incongruous within the surrounding more spacious ad-hoc layout of built development, where dwellings are set in spacious and soft-landscaped plots, so that built development sits comfortably within a semi-rural environment without being visually dominant.
17. It has not been satisfactorily demonstrated through the submitted documents, that a less formal alternative arrangement of dwellings to the proposed angular L-shaped cul-de-sac arrangement would be possible on the site, and that the site could be developed with the number of dwellings proposed in a manner that would reflect that of neighbouring built development, and would not contrast strongly with the adjacent open undeveloped fields against which it would be closely located. As such, the proposal would introduce a discordant

feature within this edge of settlement location, which would be at odds with the prevailing pattern of development.

18. Whilst some new tree planting is shown adjacent to the road entrance, the narrow width of the remainder of the road and its lack of pavements would restrict the ability of the scheme to provide a tree-lined new street, as required by the Framework. The appellant's intention to plant a number of new large individual specimen trees is noted. However, the illustrative layout does not include any meaningful green communal open space within the development, and I am not persuaded that the proposed amount of hardsurfacing of buildings, roadway and parking would provide sufficient space for effective tree planting that would benefit the public realm.
19. The retention of boundary trees is welcomed. However, the majority of the proposed soft landscaping would be around the perimeter of the site and within private gardens, and, being within private ownership, there would be no guarantee of its future retention. Also, such an arrangement of landscaping around the site boundaries would have the effect of closing off the housing, which would be inward-looking and focussed upon the access road.
20. My attention has been drawn to an extant permission for a residential development at Clockbarn Nursery to the north of the appeal site.¹ Whilst there are some similarities between the design of that scheme and the appeal proposal, there are also notable differences, including the more comprehensive and large scale size of that development, its position in relation to neighbouring built development, the inclusion of more variation in internal road layout and design and positioning of properties in relation to the road, and the inclusion of more landscaped communal open space. In any event, I must determine the current appeal on the merits of the scheme before me.
21. I have also noted that there is an extant permission² for a residential development of 6 dwellings at Elmsleigh Farm, the site of which abuts part of the southern appeal site boundary. This comprises a smaller development of 6 detached dwellings and I do not find it to be directly comparable with the current appeal scheme in respect of its layout, design and density.
22. I acknowledge that the illustrative layout which is the subject of the appeal, has arisen following changes to previously proposed layouts in response to advice received from the LPA, including the relocation of some built form away from the eastern site boundary. However, this does not justify or overcome the harm I have identified in respect of the appeal scheme.
23. The appellant has also drawn my attention to 2 alternatives to layout drawing SK19 Rev E, contained within the Design Statement submitted with the appellant's appeal documents, which show different locations for the proposed affordable housing and changes to the mix, landscaping and parking arrangements. The Council has not commented on these revised layout drawings.
24. The planning appeals procedural guidance³ (Annexe M) advises that, if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a

¹ 19/P/00027

² 17/P/00680

³ Procedural Guide. Planning Appeals – England. The Planning Inspectorate August 2019.

fresh planning application. Moreover, if an appeal is made, the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. Accordingly, I have determined the appeal on the basis of the scheme which was presented to the Council for determination under the planning application.

25. For the above reasons, I therefore conclude that the appeal scheme would result in material harm to the character and appearance of the area. As such, it would conflict with Saved Policies G1 and G5 of the *Guildford Borough Local Plan* (2003) (the GBLP) and Policy D1 of the *Guildford Borough Local Plan: Strategy and Sites 2015 – 2034* (2019) (the LPSS). These policies, amongst other things, require new development to achieve a high quality design that responds to the distinctive local character of the area in which it is set, respect established street patterns, enhance existing natural features on the site, minimise the visual impact of traffic and associated access and parking, ensure that buildings and spaces at pedestrian level provide visual interest and a sense of place and identity, ensure that new spaces created through development have an attractive and identifiable character, and provide a high quality public realm.
26. For similar reasons, the appeal scheme would be contrary to Chapter 12 of the Framework, which requires well-designed places.

Affordable housing

27. The submitted UU confirms that the appellant is prepared to provide either 10 or 11 affordable housing units within the development. 11 units accords with the requirements of LPSS Policy H2 and 10 units is the figure put forward in the appellant's supporting viability appraisal, which the appellant proposes to provide should I accept the appellant's viability case. Given my conclusion in respect of the first main issue, I am not satisfied that the site is capable of accommodating the proposed number of dwellings without materially harming the character and appearance of the area. As such, there is no requirement for me to consider the viability of the scheme to provide affordable housing as part of the determination of this appeal, since this will not affect the outcome of the appeal, and addressing my concerns in respect of the first main issue, is likely to result in changes to the scheme which would impact on its viability.

TBHSPA

28. The site is within 5km of the TBHSPA, where a net increase in housing development, either alone or in combination with other plans and projects in relation to urbanisation and recreational pressure effects, has the potential to significantly adversely impact on the integrity of the TBHSPA. The Council has carried out an Appropriate Assessment (AA) under the Habitats Regulations, concluding that the adverse impacts would be avoided if mitigation is provided through the payment of a financial contribution towards the provision of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) in accordance with the Council's adopted TBHSPA Avoidance Strategy. Payment would be secured by means of a financial contribution secured by a section 106 Legal Agreement.

29. SANG and SAMM contributions are included within the obligations contained within the appellant's submitted UU, which the Council considers to be unacceptable in respect of the affordable housing obligation contained therein.
30. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the TBHSPA European designated site falls to me as the competent authority. Were I minded to allow the appeal, I would need to carry out an AA before considering the proposed mitigation set out in the UU, since the proposal would be likely to have a significant effect on the TBHSPA. However, as the first main issue provides clear reasons for dismissing the appeal, I have not had cause to pursue undertaking an AA. I do not need to consider this matter further, since any findings on this issue would not change the appeal outcome.

Other matter

31. The submitted UU includes provision for highways, education and open space contributions in accordance with the figures requested by the Council. As I am dismissing the appeal for another reason, it is not necessary for me to consider this matter in any further detail.

Planning balance

32. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in an area where there is good access to facilities and services and public transport.
33. The Framework refers to boosting significantly the supply of homes, including addressing the needs of groups with specific housing requirements. The proposal would boost the supply of housing through the provision of 27 additional dwellings, including a range of dwelling sizes. This would make a modest contribution towards the Council's supply of housing and contribute to the Framework aim of creating mixed and balanced communities. The provision of 10 or 11 affordable homes would also be a benefit acting in favour of the proposal. The development could be built-out relatively quickly, having regard to paragraph 69 of the Framework.
34. The new dwellings would deliver economic benefits during the construction period. Additional expenditure by new residents would help support services in the village and in nearby settlements. The dwellings could incorporate sustainable aspects.
35. However, a high standard of design is also a key aspect of sustainable development. The harm I have identified to the character and appearance of the area would be significant. As a result, the social objective of sustainable development of fostering well-designed and beautiful places, would not be achieved. Whilst the Framework encourages the effective use of land in meeting the need for homes, and requires the Council to approach decisions in a positive and creative way, these matters are not unqualified and would not address or outweigh the aforementioned harm that I have identified to the character and appearance of the area.

36. Moreover, the Council has confirmed that it can demonstrate a five year supply of deliverable housing sites, and the recently updated figure confirms a 7.34 year supply.
37. Therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations, including the Framework.

Conclusion

38. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR

Richborough Estates