



Appeal Decision

Site visit made on 27 August 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th October 2019.

Appeal Ref: APP/Q3630/W/19/3226132

Land between 314 - 316 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 planning permission.
 - The appeal is made by P.Q.H against the decision of Runnymede Borough Council.
 - The application Ref RU.18/1546, dated 1 October 2018, was refused by notice dated 13 February 2019.
 - The development proposed is erection of a pair of semi-detached dwellings with off-street parking.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a pair of semi-detached dwellings with off-street parking at Land between 314 - 316 Stroude Road, Virginia Water, GU25 4DB, in accordance with the terms of the application, Ref RU.18/1546, dated 1 October 2018, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have taken the applicant's details from the appeal form as they were not listed on the application form. Similarly, I have used the appeal site address on the Council's decision notice, rather than the address listed on the application and appeal forms. The address I have used makes it clear that the proposal is for the site between two existing properties, rather than at the established residence at 316 Stroud Road.

Main Issues

3. Given the site's location within the Green Belt, the main issues are:
 - Whether the scheme represents inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The development's effects on the Green Belt's openness; and
 - The effect of the proposal on the Thames Basin Heaths Special Protection Area.

Reasons

Whether inappropriate development?

4. The Framework indicates that new buildings should be considered inappropriate within the Green Belt with a number of exceptions, including limited infilling

within villages. Policy GB1 of the Runnymede Local Plan¹ (LP) reflects those policies in providing a strong presumption against development that would conflict with the purposes of the Green Belt or adversely affect its open character. The settlement of Thorpe is specifically listed in Policy GB1 as an exception to this general approach, although Stroude is not. The Framework was published more recently than the LP and as such, is an important consideration in this appeal.

5. The proposal is for two dwellings on a plot which is sandwiched between existing housing that forms a clear, linear pattern of development. In my view, the proposal is limited in scale and accords with the definition of infilling.
6. The Framework does not provide a definition of village and whether Stroude constitutes a village is in dispute between the parties. Two previous Inspectors have considered this matter for previous appeals on the appeal site² and I have had regard to them in reaching my decision. I am also mindful of an appeal decision that reached an alternative view on whether Stroude should be held to be a village³.
7. Whilst the current LP does not regard Stroude as a village, from the evidence, I note that it is also excluded from the development boundary for the town of Virginia Water. The settlement clearly contains a large number of dwellings and a number of businesses and facilities, including a play area and day nursery. There are signs at either end of the densely developed part of the settlement and whilst these do not specifically indicate that Stroude is a village, they at least identify the name of the settlement as a distinct identity and the need to be mindful of traffic speeds through its main thoroughfare. I also regarded the gap between Virginia Water and the Royal Standard B&B, accentuated by topography and a swathe of mature trees, as providing separation between the two settlements.
8. The Council indicate that work on the emerging Local Plan (Runnymede 2030) suggests that Stroude is to be regarded as a continuation of Virginia Water as opposed to a separate village in its own right. Limited evidence has been submitted in this regard and the emerging plan is not yet capable of attracting more than limited weight. Whilst that may be the position reached once the emerging plan is found to be sound, that is not the position of the current development plan. Given my findings above, on balance, I consider that there are more physical factors to suggest that Stroude should be regarded as a village for the purposes of interpreting paragraph 145 of the Framework.
9. Accordingly, I find that the proposal represents limited infilling in a village which is one of the exceptions set out in paragraph 145 of the Framework. As such, the proposal would not represent inappropriate development for the purposes of the Framework and nor would there be any conflict with Local Plan Policy GB1.

Effect on openness

10. In terms of the effect on openness I have concluded that the proposal would not be inappropriate development. In accordance with established case law it should not be regarded as harmful either to openness of the Green Belt or to

¹ Runnymede Borough Local Plan Second Alteration (2001)

² APP/Q3630/W/17/3179879 and APP/Q3630/W/16/3161692

³ APP/Q3630/W/17/3175394

the purposes of including land in the Green Belt. Because of my findings it is also not necessary to consider whether very special circumstances exist.

11. In view of this main issue, the proposal would not have a harmful effect on the openness of the Green Belt and would therefore accord with the policies of the Framework and LP Policy GB1.

Effect on the Thames Basin Heaths Special Protection Area (TBHSPA)

12. The site is within 5km of the TBHSPA, which is designated in accordance with the Habitats Directive as transposed in the UK by the Conservation of Habitats and Species Regulations 2017 ('Habitats Regs'). TBHSPA comprises a network of heathland sites which support internationally important numbers of bird species: Dartford Warblers. Woodlarks and Nightjars. These birds are very susceptible to disturbance from informal recreational use, especially walking and dog walking. Given the site's proximity to the TBHSPA, it is considered to fall within its 'Zone of Influence', and the effects of any additional disturbance created by residents of the proposed development may adversely affect the integrity of the SPA. As a consequence, it is necessary for me to undertake an appropriate assessment (AA).
13. The conservation objectives for the TBHSPA are to "*Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring the extent and distribution of the habitats of the qualifying features; the structure and function of the habitats of the qualifying features; the supporting processes on which the habitats of the qualifying features rely; the population of each of the qualifying features, and, the distribution of the qualifying features within the site.*" I have had regard to these objectives in undertaking my duties in accordance with the Habitats Regs.
14. The proposal is not directly connected with, or necessary for the management of the TBHSPA. Whilst modest in scale, the proposal would be likely to have significant effects either alone, or in combination with other projects. The only way of avoiding adverse effects on the integrity of the protected site without seeking an alternative solution would be to secure appropriate mitigation, which the parties agree is an appropriate course of action. The two previous appeals on the site considered at length the adequacy of the methods of securing mitigation.
15. The Council's adopted document, The Thames Basin Heaths Special Protection Areas Supplementary Planning Guidance (2007) (SPG), sets out its approach to development within Zones of Influence of the TBHSPA. The methods identified within the SPG are suitable for provision of mitigation and enable the Council to meet its obligations under the Habitats Regs. The appeal site is within zone C, at two to five kilometres from the SPA, and the SPG recommends that development contributions from such sites are made on the basis of a fixed sum per net additional dwelling proposed. A contribution is to be made towards the Strategic Access Management and Monitoring (SAMM) of the TBHSPA by way of planning obligation. The provision of access to Suitable Alternative Natural Greenspaces (SANGs), owned by the Council, would also be necessary to mitigate the effects of the proposal.
16. It has been suggested that a Grampian-style condition should be imposed to secure a SANGs consent agreement prior to commencement of the

development. This would allow residents access to the Council's own SANGs, in addition to its maintenance and enhancement, in exchange for a contribution of £2000 per dwelling. The Planning Practice Guidance suggests that such a condition should not be used other than in exceptional circumstances. However, the manner in which the contribution is to be secured (through a condition and consent agreement under section 111 of the Local Government Act 1972) has been devised in order to allow the collection of contributions towards the provision of SANGs from more than five developments which would have otherwise been prevented by Regulation 123 of the Community Infrastructure Levy Regulations 2010 (2010 CIL Regs). With effect from 1 September 2019, Regulation 11 of the Community Infrastructure Levy (Amendment) (England) (no2) Regulations 2019 has removed Regulation 123 of the 2010 CIL Regs in its entirety. As such, the purpose for securing the SANGs agreement and contribution in this manner has fallen away and this renders the circumstances sufficiently exceptional to justify the use of such a condition in this case.

17. As I consider that the use of the SANGs consent agreement condition is appropriate in this instance, one of the two submitted signed unilateral undertakings ceases to have effect. In this case, the signed unilateral undertaking 'Document One' dated 16 August 2019 has been taken into consideration. This undertaking would provide a contribution of £630 per dwelling towards the SAMM of the TBHSPA. This contribution would meet the tests in Regulation 122 of the CIL Regulations, and paragraph 56 of the Framework. The unilateral undertaking has been made out to the Council with a form of wording that sufficiently binds the land and ensures that it is put towards the funding of access management and monitoring the effects of mitigation measures across the TBHSPA.
18. A consultation with Natural England was undertaken in accordance with the Habitats Regulations on 10 September 2019. The response from Natural England confirms its opinion that the proposed SAMM mitigation secured by a Unilateral Undertaking is acceptable. Natural England also confirms that subject to the Grampian-style condition being enforced, that the SANG mitigation, secured by the consent agreement, is also acceptable to address the anticipated effects of the development.
19. Having had regard to the views of Natural England, I am satisfied that the mitigation described above can be appropriately secured and that it would be sufficient to prevent harmful effects on the integrity and interest features of the TBHSPA. As such, there would be no conflict with the Habitats Directive or the Habitats Regulations. The proposal would also comply with LP Policy NE16, the provisions of the Framework and the SPG.

Other Matters

20. I have taken into consideration the third party representations on the proposal which cover a wide range of issues. In terms of the scale and design of the proposal, the proposal would assimilate well with the character of the area.
21. Subject to a condition requiring the windows in the first floor side elevations to be made obscure glazed, the proposal would not result in any harmful degree of overlooking. In view of the siting and scale of the proposal, it would not result in any overbearing effects or loss of light. In terms of the siting of the proposed refuse store, this is not considered to result in unneighbourly effects.

In view of the modest scale of the proposal and the likely duration of the build phase, it is unlikely that construction activities would be harmfully disruptive. Thus, none of these considerations, on their own or cumulatively alter my view.

Conditions

22. I have considered the suggested planning conditions having regard to paragraph 55 of the Framework and advice in the Planning Practice Guidance. Where necessary, I have changed the wording of the suggested conditions in the interests of clarity and simplicity.
23. In addition to the statutory time limit condition, it is necessary to specify the approved plans in the interests of certainty although it is not necessary to include reference to the various background documents.
24. In the interest of the character and appearance of the area, it is necessary to seek the submission and approval of the construction material prior to their use in the proposal. For similar reasons, it is also necessary to secure a scheme of landscaping prior to occupation of the proposed dwellings.
25. Given the site's proximity to a flood zone, in order to avoid exacerbating potential flooding impacts, it is necessary to condition the construction of soakaways, prevent the ground levels from being altered and prevent the storage of building materials within any areas liable to flood. For similar reasons, it is also necessary to seek details of surface water drainage works prior to construction of the development. The agreement of the appellant has been sought prior to imposition of such a condition.
26. In order to safeguard the safety of users of the highway, it is necessary to condition the provision of the vehicular accesses and parking spaces prior to first occupation of the proposed dwellings.
27. A condition requiring the provision of an electric vehicle charging point is necessary in the interests of the wider sustainability of the development, to reduce reliance on fossil fuels.

Conclusion

28. For the reasons given above, the proposal would accord with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be allowed, subject to the conditions below.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location plan ref. 19.2001/LP100 dated 5 Feb 2019
 - Existing block plan ref. 20 dated Sept 2018
 - Proposed elevations ref. 19.2001/EL001 dated 10 Jan 2019
 - Proposed section A-A ref. 19.2001/SE001 dated 10 Jan 2019
 - Street elevation ref. 19.2001/SS001 dated 10 Jan 2019
 - Proposed floor plans ref. 19.2001/FP001 dated 10 Jan 2019
 - Proposed floor plans ref. 19.2001/FP002 dated 10 Jan 2019
 - Proposed site layout ref. 19.2001/SL200 Rev A dated 6 Feb 2019
- 3) No development above ground level shall take place until details and samples of the proposed external facing and roofing materials including colour and finish have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and samples.
- 4) Prior to the first occupation of any unit, the site shall be landscaped in accordance with a hard and soft landscape plan that has been agreed in writing with the Local Planning Authority. The landscaping plan shall include details of all hard landscaping proposals, fences and gates, new tree and shrub planting as well as existing trees and plants to be retained. Any plants or trees removed, dying or becoming diseased within 5 years of the occupation of the development shall be replaced by similar trees or plants as those removed.
- 5) No soakaways shall be constructed such that they penetrate the water table and they shall not in any event exceed 3 metres in depth below the existing ground level.
- 6) There shall be no raising of existing ground levels on the site within the area liable to flood, other than in accordance with the approved details.
- 7) Prior to the commencement of construction of the development hereby approved, details of surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment shall be provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided the submitted details shall:
 - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b) include a timetable for its implementation; and
 - c) provide a management and maintenance plan for the lifetime of the development which shall

d) include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Prior to the occupation of the buildings hereby approved, the surface water drainage works shall be carried out and the sustainable urban drainage system shall thereafter be managed and maintained in accordance with the agreed management and maintenance plan.

- 8) There shall be no spoil or building materials deposited or stored within the area of the site liable to flood, before or during the construction of the development hereby permitted.
- 9) Prior to the commencement of the above ground construction, a scheme for the mitigation of the effects of the development on the Thames Basin Heaths Special Protection Area shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision for the delivery of Suitable Alternative Natural Greenspace (SANG). The scheme shall be implemented in accordance with the approved details and be retained as such thereafter.
- 10) The development hereby approved shall not be first occupied unless and until the proposed vehicular accesses to Stroude Road have been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1.05m high.
- 11) The development hereby approved shall not be first occupied unless and until each of the proposed dwellings are provided with a fast charge Electric Vehicle socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority and shall thereafter retained and maintained.
- 12) The dwellings hereby permitted shall not be first occupied until the first floor windows in the side elevations have been fitted with obscured glazing (at Pilkington Glass Level 4 or equivalent) and any part of the windows that are less than 1.7 metres above the floor of the room in which they are installed shall be non-opening and fixed shut. The windows shall be permanently retained in that condition thereafter.