



# 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: 8<sup>th</sup> October 2019.**

**Appeal Ref: APP/Q3630/W/19/3221723**

**Forest Gate Farm, Stonehill Road, Ottershaw, Chertsey KT16 0EW**

- 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 Forest Gate Farm LLP against the decision of Runnymede Borough Council.
- The application Ref RU.17/1017, dated 1 June 2017, was refused by notice dated 2 August 2018.
- The development proposed is residential development of Forest Gate Farm, comprising the demolition and removal of existing buildings, structures and contaminated land and the provision of 25 dwellings and garages.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Since the appeal application was determined, the National Planning Policy Framework (the Framework) has been updated. Both parties have commented on the updated Framework and I have taken its policies into account in reaching my decision.
3. The appeal application form states that the proposal is for 24 dwellings although following amendments to the plans during the processing of the appeal application, the proposal is for 25 dwellings. The Council determined the proposal on this basis and so shall I.

## Main Issues

4. The main issues are:
  - whether the development would be inappropriate development within the Green Belt and whether it would harm its openness, having regard to the Framework and policies in the Development Plan;
  - whether the loss of employment floorspace would be acceptable; and
  - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

## Reasons

*Whether inappropriate and effect on openness*

5. Paragraph 143 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Saved Policy GB1 of the Runnymede Borough Local Plan 2001 (Local Plan) has a strong presumption against development that would conflict with the purposes of the Green Belt or would adversely affect its open character.
7. Paragraph 145 of the Framework regards the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include: limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development, or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need.
8. Whilst Local Plan Policy GB1 reflects similar aims in terms of the protection of the Green Belt, it is more prescriptive than the Framework, thus limiting the weight which can be ascribed to it.
9. In this case, whilst I note that there was an acceptance by the appellant to contribute four dwellings as affordable dwellings in order to help meet the Council's wider affordable housing need, no completed obligation made under Section 106 of the Act<sup>1</sup> has been submitted with the appeal. As such, the proposal cannot be considered to contribute to meeting an identified affordable housing need and the 'substantial harm' threshold does not apply in this case.
10. From the evidence, there appears to be two lawful residential caravans on site and a range of commercial buildings predominantly sited towards the middle and rearward parts of the site. These commercial buildings and the land around them are used for a variety of purposes, albeit mostly concentrated on vehicle-repairs, sales and bodywork businesses. A number of additional caravans and structures appear to have been introduced to the site, which, from the evidence do not appear to have planning permission. However, the presence of the lawful buildings and residential caravans renders a large part of the appeal site as previously developed land.
11. The proposal involves the redevelopment of the developed parts of the site that are in continuing use, and the development of land that is presently undeveloped towards the middle and front of the site. Considered spatially, the proposal would have an impact on openness by spreading a greater volume of buildings than exists at present across the majority of the site, including to its undeveloped parts.
12. I have considered the Landscape and Visual Impact Assessment (LVIA) submitted with the appeal. From a visual perspective, the proposal would involve the loss of the trees lining the existing driveway which would open up views into the site. The proposal would involve the introduction of dwellings, associated roads and landscaping spread throughout the site, with the dwellings towards the front and middle section clearly visible through the new access and glimpsed over and through tree coverage at the site's frontage. In these views, the increased collective form and massing of the dwellings closer

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<sup>1</sup> Town and Country Planning Act 1990, as amended

to the road and extending across the site would have a far greater impact on openness than the generally lower buildings, moveable objects and other non-permanent single storey structures sited towards the rear and largely shielded from view from the highway. Whilst I agree with the LVIA that the new dwellings and associated features would not be uncharacteristic of the local area and that the views of such a proposal would have some similarities with development found elsewhere along Stonehill Road, it is clear that they would be more apparent and thus, harmful to the openness of the site.

13. As such, I conclude that the proposal would be inappropriate development in the Green Belt and would harm its openness, in conflict with the provisions of Local Plan Policy GB1 and the provisions of the Framework.

#### *Loss of B8 uses*

14. The Council indicate that the proposal would result in the loss of a modest authorised B8 commercial use for which there is an identified need in the borough (Building H). From the evidence, the total floor area of Building H is in the region of 85 sqm. This building is particularly modest in scale relative to the size of the site and given its location and condition, is unlikely to be attractive to more than a limited range of future users.
15. Whilst there may be a policy to guard against such losses and seek to encourage the development of new B8 uses in the emerging Runnymede Local Plan 2030, this emerging plan is not yet capable of attracting more than limited weight. I am not aware of any conflict with an existing Development Plan policy in this regard. Furthermore, I have limited evidence in relation to the extent of the need for B8 uses and how significant the loss of such a modestly scaled building would be in this context.
16. As such, whilst the Framework seeks to encourage development that sustains or contributes to the economy, the loss of employment floorspace would be of limited consequence considered in isolation and does not raise conflict with the existing Local Plan or provisions of the Framework.

#### *Effect on Thames Basin Heaths Special Protection Area (TBHSPA)*

17. Due to the proximity of the site to the TBHSPA, the effects of additional residents generated by the proposal would be likely to cause significant effects considered individually or in combination with other developments unless satisfactorily mitigated. Whilst the appellant has provided a draft unilateral undertaking requiring the payment of a contribution towards the Strategic Access, Management and Monitoring of the TBHSPA, it does not appear that the undertaking has been completed. As such, the proposal cannot satisfactorily mitigate its effects on the TBHSPA and thus conflicts with Local Plan Policy NE16 and the Thames Basin Heaths Special Protection Areas Supplementary Planning Guidance (2007) (SPG).

#### *Other matters*

18. The appellant highlights that the Council offered some positive comments in response to a pre-application submitted in respect of an earlier, similar proposal. Whilst noting some areas of broad agreement, I note that the pre-application advice also raised issues of policy conflict and in any event, pre-application advice is given without prejudice and cannot predetermine the outcome of a subsequent application.

### *Other considerations*

19. The alternative position offered by the appellant is that if the proposal is considered to be inappropriate development in the Green Belt, then the other considerations put forward amount to the very special circumstances required to justify the proposal. The considerations put forward and my finding of weight in relation thereto are set out below.
20. The removal of existing unattractive structures and the improvement of the visual appearance of the site and landscape quality is relied upon as a consideration weighing in favour of the scheme. I also note that the scheme was developed with the benefit of a landscape architect to minimise the visual impact of the scheme. However, whilst the condition of the developed parts of the appeal site is not particularly aesthetically pleasing and some redevelopment would enhance its visual characteristics, I do not consider that this is sufficient justification for the scale, form and layout of the development proposed which would harm the openness of the Green Belt. There is nothing to suggest that the proposal is the only means of securing such benefits. Furthermore, I attribute only limited weight to the visual enhancement of those parts of the site which may be being used for residential or other purposes unlawfully, as to attribute more than this may encourage purposeful unauthorised uses and development of sites elsewhere. Considered in the round, I attribute limited weight to the visual enhancement of the site.
21. The appellant claims that the proposal would result in a significant reduction in vehicular movements to and from the site. During my site visit I noted that there were a large number of vehicles associated with the businesses on site, although there is doubt about whether all existing vehicle movements are associated with lawful uses. I am more persuaded by the argument that the displacement of the businesses and unlawful uses and introduction of 25 dwellings would be likely to result in a negligible change to the number of vehicle movements to and from the site. As such, this is a neutral factor neither weighing for or against the proposal.
22. The appellant highlights the substantial nature of the works involved to remove and replace the upper layer of contaminated soil to remediate the appeal site. Whilst the remediation of the site would be necessary to facilitate the proposed residential development, it would not be strictly necessary otherwise. As these works arise only through necessity for the proposed development and not for the wider public benefit, I do not attribute any weight to this matter.
23. A notable aspect of the proposal is the large number of trees that would be planted in order to create 'green corridors' within the site. This aspect of the scheme would enhance the biodiversity value of the site and surrounding area. I attach moderate weight to this benefit of the scheme.
24. The proposal includes an area of local equipped area for play (LEAP) which it is suggested would be publicly accessible. Whilst it would benefit the future residents of the development, its positioning to the rear of the site and largely enclosed by dwellings would not be particularly obvious or welcoming to the wider public. As such, I attribute this benefit limited weight.
25. I note that the proposal would result in the provision of a footway along Stonehill Road, along with a footway along a section of Chertsey Road and improvements to the interconnecting bridleway. Given the combined distance

and rural nature of the footways and bridleway, I consider it likely that their use would be limited to recreational walking. Nevertheless, the footways and bridleway improvements would be a minor benefit of the scheme.

26. The removal of the noises, gases and odours generated by businesses on the site is also put forward as a factor weighing in favour of the scheme. I do not consider that the removal of the environmental 'nuisances' from the commercial uses on site would significantly enhance the living conditions for nearby neighbours. As such, and given that the lawful businesses also sustain local employment opportunities and economic benefit for the local area, this matter is only capable of attracting limited weight.
27. I note the more general support from neighbouring residents and businesses for the proposal, which, in the main, appear to stem from the desire for the development and uses to be made lawful and to minimise harmful impacts. Whilst I sympathise with the concerns expressed, the opportunity to remedy the suggested lack of enforcement action by the Council is not considered to be a benefit of the scheme.

### **Planning balance and conclusion**

28. The proposal would be inappropriate development in the Green Belt and would cause harm to its openness. At least substantial weight should be given to the harm to the Green Belt.
29. Furthermore, in the absence of a completed planning obligation, the proposal would not deliver any affordable housing or the necessary mitigation for impacts on the TBHSPA. The impacts on the TBHSPA alone provide a clear reason for refusing the proposal.
30. The parties agree that there is a deficiency in the Council's five year housing land supply (5YHLS). Because this is an application for the provision of housing, policies which are most important for determining the application are out-of-date<sup>2</sup>. However, the very special circumstances necessary to justify the development do not exist and the application of policies in the Framework that protect areas of particular importance provides a further clear reason for refusing the development proposed<sup>3</sup>. As such, the proposal would not be sustainable development.
31. For the reasons given above, the proposal would conflict 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 dismissed.

*Hollie Nicholls*

INSPECTOR

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<sup>2</sup> Footnote 7 of paragraph 11 (d) of the Framework

<sup>3</sup> Paragraph 11 (d)(i) of the Framework