

## Planning Committee

13 July 2022

### Planning Appeal Decisions

The following appeal decisions are submitted for the Committee's information and consideration. These decisions are helpful in understanding the manner in which the Planning Inspectorate views the implementation of local policies with regard to the Guildford Borough Local Plan: strategy and sites 2015 - 2034 and the National Planning Policy Framework (NPPF)

March 2012 and other advice. They should be borne in mind in the determination of applications within the Borough. If Councillors wish to have a copy of a decision letter, they should contact

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1. Mr T Baumann

**Land at the entrance to Effingham Place, Effingham, Leatherhead, KT24 5JT**

**20/P/01174** – The development proposed is erection of black painted metal, automated vehicle access gates and separate side pedestrian access gate on Effingham Place, set back a minimum of 15 metres from Lower Road.

Decision – Allowed

Planning Committee – 3 February 2021

Officer Recommendation – To Refuse

Decision - Refused

**Summary of Inspector's Conclusions:**

- The main issues are the effect of the proposed development on:
  - the Effingham Conservation Area;
  - the setting of a Grade II listed building; and
  - the character and appearance of the area, with particular regard to its effect on social cohesion.
- Effingham Place is a narrow, cul-de-sac and a private road which serves seven residential properties. At its far end there is a substantial Grade II Listed Building, Effingham Lodge, which has been subdivided to form two separate dwellings, Marlborough House and St Lawrence House. The appeal site comprises the roadway at the entrance to Effingham Place and a small area of adjacent land.
- I conclude that the proposed development would preserve and enhance the character and appearance of the ECA.
- It would therefore comply with Policies D1 and D3 of the Guildford borough Local Plan: strategy and sites 2019 (the LPSS), Saved Policies G5 and HE7 of the Guildford borough Local Plan 2003 (the LP) and Policies ENP-G2 and ENP-G3 of the Effingham Neighbourhood Plan 2018 (the ENP). These policies together require a high quality of design that responds to the distinctive local character, for the historic environment to be conserved and enhanced in a manner appropriate to its significance, for

development to enhance the special interest of the heritage assets, to preserve or enhance the character or appearance of the conservation area, respect the relationship with other buildings, reflect the layout and character of the historic settlement form of Effingham. It would also comply with the National Planning Policy Framework (the Framework) which requires great weight to be given to the asset's conservation.

- I have found no specific conflict with Saved Policy G1 of the LP which sets out general standards of development but does not directly relate to development affecting heritage assets.
- I conclude that the proposed development would not harm the setting of the listed building. It would therefore comply with Policies D1 and D3 of the LPSS, Saved Policies G5 and HE4 the LP and Policies ENP-G2 and ENP-G3 of the ENP. These policies together require a high quality of design, for the historic environment to be conserved and enhanced in a manner appropriate to its significance, for development to enhance the special interest of the heritage assets and their settings, respect the relationship with other buildings, reflect the layout and character of the historic settlement form of Effingham. It would also comply with the Framework which requires great weight to be given to the asset's conservation. For the reasons stated above, I have found no specific conflict with Saved Policy G1 of the LP.
- I conclude that the proposed development would not harm the character and appearance of the area, with particular regard to its effect on social cohesion. It would therefore accord with Policy D1 of the LPSS which seeks a high quality and inclusive design, that create safe and accessible spaces. It would also accord with the Framework and the NDG as referred to above.
- I conclude that the appeal should be allowed.

2. Mr Joseph Cooper and Ms C Brazil

**Longacres, Outdowns, Effingham, Leatherhead, Surrey, KT24 5QR**

**20/P/00685** – The development proposed is the change of use of land to one Gypsy pitch with residential caravans, 1 day room and hardstanding for occupation by the applicants and their family.

Decision – Dismissed

Delegated Decision – Non-Determination

**Summary of Inspector's Conclusions:**

- Based on the Council's submissions, which have also been modified during the course of the appeal, the main issues in this appeal are;
- Whether the development is inappropriate development in the Green Belt
- Whether any other harm to the Green Belt results from the development
- The effects of the proposal on the character and appearance of the area
- The effects of the proposal on highway safety
- The need for and supply of such sites
- The personal circumstances of the appellants including the effects on the children.
- I attach substantial weight to the harm to the Green Belt that arises from its inappropriateness and the proposal would be contrary to Policy P2 of the Guildford Local Plan; Sites and Strategy 2015-2030 (LPSS) and the advice in the National Planning Policy Framework.

- Prior to the occupation of the site by the appellant, the photographic evidence submitted by the Council indicates that the site was open and free from buildings and structures. The existing and proposed use of the site involves the stationing of a number of caravans, vehicles, a dayroom and a playroom, as well as other domestic paraphernalia. Compared to its previous state, the proposed use would have a significantly deleterious effect on the openness of the site. In addition, the development would conflict with one of the main purposes of the Green Belt of assisting in safeguarding the countryside from encroachment. This gives rise to additional conflict with Policy P2 of the LPSS and the Framework.
- Due to the topography and presence of woodland in the surrounding land, it is generally agreed that there would be no wider negative effects on the landscape and the designations referred to above. However, the track and pathways nearby are used by members of the public and the structures and features of the site would have some negative effects on the character and appearance of the area from these more immediate parts of the surroundings, in conflict with Policy D1 of the LPSS and Policy ENP-G2 of the Effingham Neighbourhood Plan as well as saved policies G1 and G5 of the Guildford Local Plan 2003.
- The available visibility for drivers emerging from the junction of Outdowns with the A246 when measured using an X distance of 2.4m back from the carriageway edge at the minimum 1.05m driver's eye height is restricted to lower than the 120m, which is the County Council's stated requirement here. It is restricted to the west by a fence and vegetation and to the east by vegetation. Discussion at the Hearing concentrated on the visibility to the east, the 'leading' direction as vehicles approaching from that direction are closer to the edge of the carriageway and more critical for vehicles emerging from Outdowns.
- Visibility to the east is restricted by epicormic vegetation growing from the base of a tree, which is included within a Tree Preservation Order. The tree is apparently on private land and there is disagreement between the Council and the appellant about the extent of the private land and the highway boundary here. The Council considers that the private land extends towards the edge of the running surface of the road and so includes land over which the epicormic growth occurs, whilst the appellant casts doubt in the confidence that may be placed in the available information.
- Whilst I acknowledge that records indicate that there have been no personal injury accidents at this junction for over 10 years, I consider that the increase in the use of the junction brought about by the existing/intended use of the appeal site would represent a marked increase in the numbers of vehicles that use it. Whilst it would seem unlikely that the layout of the junction is likely to change in the near future and the existing properties will continue to use the road, I consider that the increase in the use of the unsafe junction would be significant and weighs substantially against the appeal scheme. The consequences of a collision here could have profound consequences and could affect the appellants and their family. Therefore, the development would be in conflict with Policy ID3 of the LPSS.
- There is agreement that the Council can demonstrate a suitable supply of such sites. However, the appellants stress that there is a general need for such sites and that the Council's provisions mean that sites may not be available for some years.
- The appellants and their family have submitted evidence of their healthcare needs, their educational needs and their family ties and commitments to the area. A number

of the family require health services which they gain access to from the appeal site. Four of the children attend school or pre-school locally and some have special/additional needs. In addition, care is provided for an elderly relative who lives a short distance from the appeal site. I have no doubt that moving from the appeal site would represent a significant disruption for the appellants family in continuing to gain access to healthcare, family commitments and particularly to the continued education and welfare of the children. I attach moderate weight to these matters in determination of this appeal and I have considered the effects on the children as a main consideration.

- The development is inappropriate in the Green Belt and the NPPF advises that inappropriate development should not be approved except in 'very special circumstances', which will not exist unless the harm to the Green Belt by way of inappropriateness, and any other harm, is clearly outweighed by other considerations. It adds that inappropriate development is, by definition, harmful to the Green Belt. I give substantial weight to this harm to the Green Belt. Furthermore, the development would have an unacceptably harmful effect on the openness of the Green Belt and one of its main purposes of keeping land permanently open. I attach significant weight to this harm.
- In view of the above matters, I consider that the harm identified is not clearly outweighed by the 'other considerations' relied on by the Appellant so as to justify granting permission, even for a temporary period of time. Consequently, a temporary permission would also conflict with relevant local and national policy. Dismissing the appeal would result in an interference in the human rights of the appellants and their family. However, that interference would be no more than is necessary to control the use of the site in the general public interest, bearing in mind the legitimate planning policy considerations, and would not be disproportionate in this case.
- In relation to the Public Sector Equality Duty, I consider that none of its aims would be furthered by granting planning permission, given the objections to it that I have identified.

3. Mr Dudley Mills (Kebbell Homes)

**Land at Elmsleigh Farm, Send Barns Lane, Send, GU23 7BP**

**20/P/01885** – The development is the erection of 8 no dwellings, together with associated works.

Decision – Dismissed

Delegated Decision – Non-Determination

**Summary of Inspector's Conclusions:**

- The main issues are (a) the effects of the proposal on the character and appearance of the area, (b) whether affordable housing should be provided, and (c) refuse and recycling provision.
- The appeal site comprises a longitudinal parcel of land located to the rear of a similar shaped, albeit smaller frontage land at Elmsleigh Farm, which has the planning permission for 6 dwellings. The appeal site is mainly open land, with landscaping, but with no significant trees, and backs onto a stream. On either side of the site, there are gardens associated with residential development on Send Marsh Road and Elmsleigh House on Send Barns Lane.

- The site and its surroundings are located within a designated inset boundary of Send, having been removed from the Green Belt following the adoption of the Guildford Local Plan 2019 (the 2019 LP). Within the surrounding village, development mainly consists of frontage housing, with short tributary roads serving housing off these in some instances. It has a loose-knit urban grain, with a variety of dwelling types, plot sizes and shapes within a spacious and landscaped context. Many properties have long rear gardens and are within a surrounding context of fields, paddocks and landscaped areas. Together with the countryside backdrop to the village, this results in a distinctive local semi-rural character and appearance.
- The proposed development would result in the built form extending from Send Barns Lane towards the river. Individually, the dwellings would be attractively designed in a local vernacular form and style, with first floor tile hanging, steeply pitched roofs and strong roof gables. The revisions to the dwellings and plots 3 and 4 would result in a riparian landscaped buffer alongside the stream.
- However, many of the dwellings would be sited close to one another and where there is separation, this is dominated by hard surfaced carparking and turning, which would give rise to an overly dense form and layout of development. The overall coverage of building and hard surfaced areas, including the access road, would emphasise an overly developed nature of the proposal. Exceptions are the side gardens to the dwellings on plots 1 and 2, but their layout with dwellings with short or minimal back gardens, and wide side gardens accentuates a feeling of a development being 'squeezed-in'. Plot 3's dwelling, garden and boundary walls backing onto the estate road further emphasise a suburban estate style of development inappropriate to the identified character and appearance of the area.
- The proposed 8 dwellings would be a continuation of the permitted dwellings on the frontage. Access would be through this development and the proposed dwellings would be similar in design. However, the proposed residential development would be in a more isolated and exposed position, being located away from the frontage housing and surrounded by landscaped gardens and a stream, with field/paddock beyond this. Furthermore, the proposal would cumulatively result in a marked densely developed finger within a semi-rural context. As a result, the density of overall built form would be far greater than the surrounding area.
- On land off Send Hill, an appeal for 8 dwellings was allowed where there was two dwellings fronting the road and the remainder, behind, served by an estate road. However, the site is located in a different part of Send and the development has a less dense quality with a significant stretch of public open space and rear garden on one side of its estate road. The siting of dwellings close to one another and hard surfacing in between in some cases does though serve to illustrate the adverse over-developed impacts of the proposal before me. In any case, every proposal has to be considered on its particular planning merits.
- Furthermore, there are no other examples of such dense linear extended residential developments with an associated long access drive and as such, the development would be incongruous when compared to the surroundings. For all these reasons, the development would lack an attractive and identifiable character and would have a significant urbanising harm on character and appearance in conflict with Policy D1 of Guildford Local Plan (the 2019 LP) 2015-2034, adopted 2019, Saved Policy G5 of

the Guildford Local Plan (the 2003 LP), adopted 2003 and Send 1 of the Send Neighbourhood Development Plan (NP), made 2021.

- Policy H2 of the 2019 LP sets out affordable homes will be required on sites providing 11 or more homes and that 40% of these homes shall be affordable. If both the 6-dwelling permitted and proposed 8 dwelling sites had come forward as a single entity, this would have resulted in the need for affordable housing provision. The supporting text to Policy H2 states that developments that seek to avoid the requirements of this policy by failing to make the most efficient use of land or by artificially subdividing the land into smaller sites will not be permitted.
- Since at least the time of the 2017 permission for six dwellings, the appeal and frontage site have been in the same ownership. The approved layout plans showed the future possibility of the continuation of the access to serve the appeal development. Irrespective of whether the 2017 /2018 permissions have been lawfully established, there has been a delay in fully building out the permitted dwellings.
- The Green Belt designation of the appeal site was removed with adoption of the 2019 LP and the appeal site now sits within the designated inset boundary of Send. The proposal to remove the appeal site from the Green Belt has been in the public domain since 2014. It is understandable that the Council would want to guard against an attempt to avoid affordable housing obligations. However, any proposal to develop both sites together for housing would run the risk of refusal on Green Belt grounds until the local plan inspector had made his recommendations which would have been after the 2018 application was prepared and submitted. The 6 dwelling permitted scheme allowed for access to future development on the appeal site, but this is understandable to take account of future changes in local and national policy when they formally take place. On this basis, there is no evidence before me that a cynical and contrived subdivision of land took place to avoid the affordable housing policy requirements.
- For all these reasons, it has not been demonstrated that affordable housing provision should be made and therefore, there is no conflict with Policy H2 of the 2019 LP.
- All the dwellings would be provided with storage facilities for both waste and recyclable materials and the revised servicing details show refuse vehicle turning area and tracking. The latest tracking plan, FD 19 -1701 056 D, shows manoeuvring for a standard dimensioned service vehicle. The shown storage points for resident's refuse/recycling bins for plots 3, 4 and 5 would not be within the required 5m collection zone of an operating vehicle. However, such requirements are guidance, and some minor changes could be made to improve the accessibility of the collection areas to bin collectors. A suitably worded planning condition could be imposed to secure this.
- The distance that these residents would have to trail their bins to the collection points would also be beyond the 5m collection limit but if they did not, their bins would not be collected and therefore, there is strong motivation for residents to place bins in the designated area. There are two vehicle parking spaces at the end of one limb of the refuse vehicle manoeuvring area and there would be a need for private vehicles not to be parking within the manoeuvring area shown on the

tracking plan. However, residents would be wanting their bins to be collected and therefore, similarly self-policing should avoid any problematic car parking.

- For all these reasons, there would be acceptable refuse and recycling facilities to serve residents in compliance with Policy D1 of the 2019 LP.
- The proposal, for 8 dwellings, would make a small boost to housing supply early in the plan period of the 2019 LP and would provide a mix of six 3-bedroom and two 4-bedroom dwellings. The local plan inspector for the 2019 LP placed significant weight on the early delivery of housing within the first five years of the plan period. Residents would be within reasonable walking distance of Send Village centre with its range of facilities and services, including convenience store, school and medical centre. Such considerations would modestly weigh in favour of the proposal.
- The proposal would boost housing supply, in a small way, in the early period of the 2019 LP, in a location with reasonable access to services and facilities and would provide a mix of different residential units meeting housing requirements of the development plan. However, there would be harm to the character and appearance of the area in conflict with design policies of the 2019 LP, 2003 LP and NP. Such harm would be significant and overriding for the reasons previously indicated, and there would be conflict with the development taken as a whole.
- There are economic and social benefits in favour of the proposal. However, the National Planning Policy Framework indicates that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. The proposal would fail to achieve this because it would not be visually attractive due to poor architecture and layout and would be being unsympathetic to local character. The Council has a 5 Year Housing Land Supply (5YHLS), although this is not a maximum target to be achieved. For all these reasons, there are no material considerations of sufficient weight or importance to determine that the decision should be taken otherwise than in accordance with the development plan. Therefore, planning permission should be refused.
- In relation to the mitigation of the impact of the development on the TBHSPA, there has been no objections from the Council. As there are substantive reasons to dismiss the appeal, there has been no need to consider the acceptability of it within this decision.
- For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed, and planning permission is refused.