

Windlesham Heathpark Wood Group

Pre-Submission Surrey Heath Local Plan (2019-2038): (Regulation 19)

Representations on: Legal Compliance, Soundness, and the Duty to Cooperate.

Background

The Windlesham Heathpark Wood Group (WHWG) was constituted some eleven years ago when it became evident that Heathpark Wood, the large wood adjoining Woodlands Lane, Windlesham was coming under threat from large scale development. The aim was to preserve the wood and its flora and fauna in its entirety if possible.

This culminated in the Group becoming a Rule 6 Party at the appeal against the refusal by Surrey Heath Borough Council to allow the development of up to 140 houses by Messrs Persimmon on the Housing Reserve Site at Heathpark Wood. The appeal was subsequently allowed subject to conditions which at the time of writing have not all been met.

The balance of the former Housing Reserve Policy site consists of The Ferns, St Margaret's, Chamness and one further property (Woodlands) in dual ownership upon which matters are silent at present.

The Substance of the Groups Representation

Not Consistent with national policy.

The Group believes that Surrey Heath Borough Council has failed in its duty to take account of the made Windlesham Neighbourhood Development Plan in the preparation of the new Local Plan, thus not meeting compliance with the National Planning Policy Framework.

Not positively prepared.

Surrey Heath Borough Council has taken a negative approach to allocating housing numbers in Windlesham by not taking account of current housing obligations within the plan period while unnecessarily placing a further burden on the village for sites that have already been refused planning permission.

Lack of Duty to Cooperate.

We believe that Surrey Heath Borough Council have failed to cooperate by not taking full account of the agreed policies in the made Windlesham Neighbourhood Development Plan.

This includes the future housing numbers to be accounted for in Windlesham in the new plan period and other policies in the Windlesham Neighbourhood Development Plan that Surrey Heath Borough Council has formerly recognised but failed to transpose into the new Local Plan when publishing site allocations in the village. Surrey Heath Borough Council has also failed to honour long standing commitments to concentrate housing development in the west of the borough where it compliments employment and infrastructure and would more readily promote affordable housing.

Pre-Submission Surrey Heath Local Plan (2019-2038): (Regulation 19)

The paragraph that follows is taken from the document titled Pre-Submission Surrey Heath Local Plan (2019-2038): (Regulation 19) and is the only reference in this part of the documentation to the Windlesham Neighbourhood Plan. Clearly, Surrey Heath Borough Council claim that their plan has taken account of the Windlesham Neighbourhood Plan but succeeding policies make it obvious this has not happened. Indeed, there is a direct conflict between the Councils local plan and the extant Windlesham Neighbourhood Plan. (See Appendix A and B)

Neighbourhood Plans

*1.18. Parish Councils or Neighbourhood Forums have the ability to create neighbourhood plans to create a local vision and planning policies for a designated Neighbourhood Area. **Once adopted, neighbourhood plans form part of the statutory development plan and are a material consideration in the determination of planning applications. Windlesham Neighbourhood Plan was formally 'made' part of the Surrey Heath Development Plan in June 2019 and other neighbourhood plans are in preparation. Neighbourhood plans can provide an additional level of local planning policy but must be in general conformity with the strategic policies in the Local Plan once these are adopted. Appendix 3 provides a list of the strategic policies for the purposes of preparing neighbourhood plans.***

and from...

Sustainability Appraisal (SA) of the Surrey Heath Local Plan, SA Report

2.4.3 Finally, it is important to note that the plan will be prepared mindful of the “Made” Windlesham Neighbourhood Development Plan (W NDP) and the emerging NDPS for Deepcut and Chobham. NDPS must be in general conformity with the local plan, but it is also the case that NDPS, both made and emerging, are a consideration when preparing the local plan.

Natural Justice

The statement by the Council that Neighbourhood Plans “should be in conformity” is not therefore a one-way street and it was clearly in the minds of legislators at the time Neighbourhood Plans were created that Councils could not ignore extant made Neighbourhood Plans in preparing new Local Plans. Indeed, the Council purport to understand this by virtue of their Sustainability Appraisal at 2.4.3 above.

The Conflict

Three properties on the site of Heathpark Wood have been included in the site allocation list for Windlesham in the new Local Plan:

The Ferns and St Margaret's – Both plots with large houses in substantial grounds. Although separate entities these two sites have been aggregated in the tables. In total 16 units. Both have been refused planning consents separately by Surrey Heath Borough Council in 2024 with strong arguments including non-compliance with the Windlesham Neighbourhood Plan. Both sites are currently subject to an appeal by written representations.

Chamness – The Planning application for this site was registered in January 2023 and has only recently been scheduled to be heard on 19 September 2024. Heavily wooded site with one derelict bungalow, 20 units of “Affordable” housing. Surrey Heath Borough Council have already criticised the proposed density as too high for the site and the current planning application has yet to be heard. However, the site allocations still show the higher density and this added to the reasons for refusal on the other two sites would suggest a similar outcome might be expected with the Chamness application.

It is of note that none of the above site owners were objectors at the consultation stage of the Making of the Windlesham Neighbourhood Plan. In addition, it has been shown that among the objections leading to refusal in the first two cases was the realisation that the housing numbers for the future plan period had been more than satisfied in the adjoining Heathpark Wood site of up to 141 housing units.

It will be noted from Appendix A and B below that Surrey Heath Borough Council has refused Planning Consent on The Ferns and St Margaret's in 2024 yet it now shows these sites in the site allocations for the new Local Plan with no reference to the Windlesham Neighbourhood Plan to which it is a party.

It is appreciated that site allocations in the Local Plan are not an indication that the sites listed will eventually receive a planning consent but it seems to us that leaving them out of the Local Plan would achieve the same ends while paying due respect to the extant Windlesham Neighbourhood Plan as made and to reinforce Surrey Heath Borough Council's commitment to concentrate housing development in the West of Borough.

Ann M Fenton

Chair

Windlesham Heathpark Wood Group

17th September 2024

Appendix A



Team: Planning Services
Our Ref: 23/0486/FFU
Direct Tel 01276707100
Email:
development.control@surreyheath.gov.uk

Surrey Heath Borough Council
Surrey Heath House, Knoll Road,
Camberley, Surrey, GU15 3HD
Web: www.surreyheath.gov.uk

ET Planning
200 Dukes Ride
Crowthorne
RG45 6DS

Date of Decision: 18th March 2024

TOWN & COUNTRY PLANNING ACT 1990
Town & Country Planning (Development Management Procedure) (England)
Order 2015

Application Number: 23/0486/FFU

Proposal: Demolition of existing dwelling and erection of seven dwellings with associated landscaping and parking

Location: The Ferns , Woodlands Lane, Windlesham, Surrey, GU20 6AS

In pursuance of their powers under the above-mentioned Act and Order the Council, as the Local Planning Authority, hereby **REFUSE** permission for the above development for the following reason (s):

I The proposal's layout by reason of:

(a) the density and ratio of building footprint to open space development; and,

(b) the lack of tailored layout which includes the heavily engineered access road, extent of landscaping and lack of semi-public spaces for interaction would result in a development that would fail to promote local distinctiveness and placemaking and would be harmful to the verdant, wooded and rural approach to Windlesham village.

The proposal would therefore not respect and improve the character and appearance of the area and would be contrary to principles WNP2.1 and WNP2.2 of the Windlesham Neighbourhood Plan 2018-2028, Policies CP2 and DM9 of the Surrey Heath Core Strategy and Development Policies Document 2012.

- 2 The internal size of the garages would fail to adhere to the minimum internal dimensions of 3 m by 7 m as required by principle WNP4.1 of the Windlesham Neighbourhood Plan 2018-2028. The garaging would therefore be incompatible with the size of modern vehicles and not provide the necessary important domestic storage facility. By failing to deliver high quality design the proposal would be contrary to Policies DM9 and DM11 of the Surrey Heath Core Strategy and Development Policies Document 2012.

Informatives:

1. This Decision Notice is a legal document and therefore should be kept in a safe place as it may be required if or when selling your home. A replacement copy can be obtained, however, there is a charge for this service.
2. The applicant is advised that the application has been considered on the basis of the following submissions:

Plan drawings:

Received 09 May 2023:

22 - J4211 - LP, 22 - J4211 - 107, 22 - J4211 - 106, 22- J4211 - 105, 22- J4211 - 104, 22- J4211 - 103, 22- J4211 - 102, and 22- J4211 - 101.

Received 10 November 2023:

23 J4241- 100 Rev A23- J4241- 100.1 Rev A

Documents:

Received 09 May 2023:

Planning Statement dated 5 May 2023

Arboricultural Impact Assessment dated May 2023

Transport Statement dated April

2023 Design and Access

Statement dated April 2023

Received 16 May 2023:

Energy statement Issue 1.0 dated 14 May 2023

Flood Risk assessment dated 15 May 2023

Received 17 May 2023

Preliminary Ecological Appraisal Ref.R3398/e dated

September 2023 Bat Emergence Survey Ref.R3531/a

dated September 2023

G.Chinniah

Head of Planning

Duly authorised in this behalf

(ATTENTION IS DRAWN TO THE NOTES ATTACHED)

NOTES TO APPLICANTS

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice, unless your decision relates to the following:

- For a Householder Planning Application you must appeal within 12 weeks of the date of this notice.
- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, then you must appeal within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application then you must appeal within: 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.
- For a minor commercial application you must appeal within 12 weeks of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Further advice

- If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out any development which has been or would be permitted, the owner may

serve a Purchase Notice on Surrey Heath Borough Council. This Notice will require the Council to purchase his interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990.

- In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 120 of the Town and Country Planning Act 1990.
- This decision notice refers only to the application made and does not convey any other consent or permission. Applicants should satisfy themselves that any other relevant consent is obtained before any work commences. For example: approval under the Building Regulations; consent under the Environment Agency byelaws; the release of any restrictive covenants on the land or permission of any landowners. Attention is drawn to Section 20 of the Surrey Act 1985 which requires that when a building is erected or extended proper provision shall be made for the fire brigade to have means of access to the building and any neighbouring building.
- This decision notice is a legal document and therefore should be kept in a safe place as it may be required if or when selling your home. A replacement copy can be obtained at www.surreyheath.gov.uk. A paper copy can be obtained but there is a charge for this service.

Appendix B



Team: Planning Services
Our Ref: 23/0581/FFU
Direct Tel 01276707100
Email:
development.control@surreyheath.gov.uk

Surrey Heath Borough Council
Surrey Heath House, Knoll Road,
Camberley, Surrey, GU15 3HD
Web: www.surreyheath.gov.uk

N Griffin
Inception Planning Limited
Quatro House
Frimley Road
Camberley
GU16 7ER

Date of Decision: 11th March 2024

TOWN & COUNTRY PLANNING ACT 1990
Town & Country Planning (Development Management Procedure) (England)
Order 2015

Application Number: 23/0581/FFU

Proposal: Erection of nine dwellings following demolition of existing dwelling.

Location: St Margarets, Woodlands Lane, Windlesham, Surrey, GU20 6AS

In pursuance of their powers under the above-mentioned Act and Order the Council, as the Local Planning Authority, hereby **REFUSE** permission for the above development for the following reason (s):

1 The proposed development owing to its unacceptable layout include parking design, lack of spacing between properties and around buildings, insufficient landscaping, and built development to plot ratio together with the overall width, scale and height of the properties would result in an overdevelopment of the site, harmful to the semi-rural, verdant character of the surrounding area. This would be contrary to the aims and objectives of Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012, the National Planning Policy Framework, Policy WNP2.1 of the Windlesham Neighbourhood Plan 2018 and Principles 6.2, 6.3, 6.4, and 7.4 Residential Design Guide Supplementary Planning Document 2017.

2 The proposal, owing to linear parking layout, in combination with the absence of a pedestrian pathway and safe refuge area within the site, fails to demonstrate that it would provide a safe and suitable environment for highway users within the site. The development would therefore be prejudicial to highway safety contrary to Policy CP11 and DM11 of the adopted Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

3 In the absence of a payment or a completed legal agreement under section 106 of the Town and Country Planning Act 1990, the applicant has failed to comply with Policy CP14B (vi) (European Sites) of the Surrey Heath Core Strategy and Development Management Policies Document 2012 and Policy NRM6 (Thames Basin Heath Special Protection Area) of the South East Plan in relation to the provision of contribution towards strategic access management and monitoring (SAMM) measures, in accordance with the requirements of the Surrey Heath Borough Council's Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (2019).

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2. The applicant is advised that the application has been considered on the basis of the following submissions:

Plans:

001, 002, 003, 004, 005, 006 and 007 received 15 June 2023 and 001 Rev E and TRK01(1) Rev D, TRK01(2) Rev D, TRK01(3) Rev D, TRK01(4) Rev D, TRK01(5) Rev D, and TRK01(6) Rev D received 25 September 2023.

Documents:

received 30 May 2023

Ecological Report Ref.233094 dated May 2023
Infiltration Report Ref.20857/IR dated May 2023
Noise Impact Report Ref.20564 V2 dated 21 April 2023
Archaeological Desk Based Assessment Ref.JAC28893 V1 dated April 2023
Arboricultural Impact Assessment dated

May 2023 received 15 June 2023

Transport Statement Ref.PC/P22141 TS dated May

2023 received 25 September 2023

Flood Risk Assessment & SuDS Strategy Ref.082835-CUR-00-XX-RP-D-00001 Rev.P03
dated 31
August

2023

received 04

October

2023

Arboricultural Impact Assessment dated October

2023 received 22 November 2023

Ecological Appraisal

technical note received 22

December 2023

Arboricultural Assessment technical note

G.Chinniah

Head of Planning

Duly authorised in this behalf

(ATTENTION IS DRAWN TO THE NOTES ATTACHED)

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