



www.communities.gov.uk
community, opportunity, prosperity

31 October 2008

Derek Horne
Derek Horne and Associates Limited
27 Maiden Lane
Covent Garden
London
WC2E 7JS

Our Ref: APP/R3650/A/08/2063055
Your Ref: DHA/07/54/DRH

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY FLAMBARD DEVELOPMENT LIMITED
LAND AT FLAMBARD WAY, CATTESHALL LANE AND WOOLSACK WAY,
GODALMING, SURREY
APPLICATION REF: WA/2007/1390**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Andrew S Freeman BSc(Hons), who held a public local inquiry on 1-4 July 2008 and 8-11 July 2008 into your client's appeal against the failure by Waverley Borough Council ("the Council") to give notice within the prescribed period of a decision on your client's application for mixed use development of Phase II of the Godalming key site to provide for the demolition of the existing buildings and new development comprising residential accommodation and commercial floorspace within Use Classes A1, A2, A3, B1, C3, D1 and D2 (as alternative uses), replacement of the existing police station, and provision for car parking and associated highway, access and landscaping works on land at Flambard Way, Catteshall Lane and Woolsack Way, Godalming, Surrey in accordance with application number WA/2007/1390, dated 8 June 2007.

2. On 12 February 2008, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990. The reason for the recovery was that the appeal raises issues relating to residential development of 150 or more dwellings or on more than 5 hectares of land which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be granted subject to conditions. For the reasons given below the Secretary of State disagrees with the Inspector's recommendation to grant planning permission, subject to conditions, and has decided to dismiss the appeal and refuse planning permission. A copy of the

Department for Communities and Local Government
1/H1
Eland House
Bressenden Place
London
SW1E 5DU

Tel 020 7944 8721
Fax 020 7944 5919
Email mark.plummer@communities.gsi.gov.uk

Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural issues

4. The Secretary of State has had regard to the submitted amended plans (Plans A1-A22) put forward by the appellant in response to the Council's resolution to refuse planning permission for the original scheme (IR1, IR2). She has determined the proposal on the basis of the amended plans and, since these amended plans have been subject to full consultation, she considers that there would be no prejudice to any party.

Environmental Statement

5. In reaching her decision, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ("EIA Regulations") (document CD E6). The Secretary of State is content that the Environmental Statement and all the additional environmental information supplied comply with the EIA Regulations, and that they are sufficient to ensure that the environmental effects of the development can be rigorously assessed.

Policy considerations

6. In deciding the appeal, the Secretary of State has had regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

7. In this case, the development plan comprises the Regional Spatial Strategy for the South East (RSS9), published in March 2001, the Surrey Structure Plan (SP), adopted in December 2004, and the Waverley Borough Local Plan (LP), adopted in April 2002. The Secretary of State observes that the majority of policies of relevance to this appeal in the development plan were "saved" by 27 September 2007 under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 (IR14). With the exception of SP policy D14, which has not been saved, the Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR14-IR15.

8. The Secretary of State has also had regard to the emerging *South East Plan*. The Secretary of State published Proposed Changes to the emerging *South East Plan* on 17 July 2008. Given the advanced stage of development in preparation of the emerging Regional Spatial Strategy, the Secretary of State accords its policies significant weight. However, she considers that this does not raise any new issues which would either affect her decision, or require her to refer back to the parties, prior to reaching her decision.

9. Other material considerations which the Secretary of State has taken into account include: Planning Policy Statement 1 (PPS1) *Delivering Sustainable Development* and its supplement *Planning and Climate Change*; Planning Policy Statement 3 (PPS3) *Housing*; Planning Policy Guidance note 4 (PPG4): *Industrial and Commercial Development and Small Firms*; Planning Policy Statement 6 (PPS6)

Planning for Town Centres; Planning Policy Guidance note 13 (PPG13) *Transport*; Planning Policy Guidance note 15 (PPG15) *Planning for the Historic environment*; Planning Policy Statement 23 (PPS23): *Planning and Pollution Control*; Planning Policy Guidance note 24 (PPS24): *Noise*; Planning Policy Statement 25 (PPS25) *Development and Flood Risk*; Circular 11/95: *The Use of Condition in Planning Permission*; and Circular 05/2005: *Planning Obligations*.

10. The Secretary of State has also taken into account draft PPS4: *Planning for Economic Development*, published for consultation on 17 December 2007, and the proposed changes to PPS6: *Planning for Town Centres* which were published for consultation after the inquiry on 10 July 2008. As these documents are still in draft and may be subject to change, she affords them little weight.

11. The Secretary of State has also taken into account the following Supplementary Planning Guidance (SPG) documents: *Godalming Key Site Development Framework*, approved by the Council in 2001; *the Parking Strategy for Surrey SPG*, adopted by Surrey County Council in February 2003; and *Density and Size of dwellings SPG*, adopted by the Council in October 2003. She has also taken into account the Surrey Design Guide, published in 2002 by Surrey County Council, and the joint English Heritage/Commission for Architecture and the Built Environment (CABE) *Guidance on tall buildings*, published in June 2007. She considers that these documents are material considerations in this particular case.

12. In deciding the appeal, the Secretary of State has had regard to the impact of the proposed development on the settings of the Grade II listed building of Olde Steppe House and other listed buildings in the area. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, she has paid special regard to the desirability of preserving the listed buildings or their settings or any features of special architectural or historic interest which they may possess. Given that the appeal site is very close to the Godalming Conservation Area, the Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of that area, as required by section 72(1) of the same Act.

Main issues

13. The Secretary of State agrees with the Inspector that the main issues are set out in IR368.

a) Effect on the character of the area and the setting of the Conservation Area.

14. PPS1 states that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted. It also states that developments should respond to their local context and create or reinforce local distinctiveness; and should be visually attractive as a result of good architecture and appropriate landscaping

15. The Secretary of State notes that the site is in a prominent location close to the centre of Godalming and, on the basis of the available evidence, it will be seen from a number of views surrounding the historic market town, albeit not from within the Conservation Area (IR245, IR384, documents 3 and CDJ18). She therefore attaches

significant weight to the design aspect of the proposal. Given the importance she attaches to the design, the Secretary of State has carefully considered the views of CABE (IR383 and documents 5, CD F5, CD F5A and CD J14, page 38).

16. The Secretary of State has had regard to the fact that most of the appeal development would be 4 – 7 storeys in height, with an 8 storey tower (IR377) and that this is in marked contrast to Godalming in general, and the Conservation Area in particular, which is characterised by development that is two or three storeys in height (IR376).

17. In terms of the site's location, the Secretary of State accepts the Inspector's view that, from many vantage points, the appeal site is seen as a discrete area (IR371). She recognises that the LP states buildings should not exceed three storeys in height (IR378) but, like the Inspector, and for the reasons he gives, she considers that the development should not be constrained in this way (IR379). She also agrees with the Inspector that, given the lack of a strong visual context for the development, an intensive development of the scale proposed would be appropriate to its setting and complement the character of the area (IR379). She also agrees with the Inspector that it would be wrong to approach the design on the appeal site as if it were a site seen in isolation (IR379).

18. The Secretary of State agrees with the views of CABE (document CD J14) that, whilst the scale of the development could be appropriate to its context, this is dependent upon high quality architecture and sensitive detailing being achieved. In this respect, the Secretary of State considers that the architecture is not of sufficiently high quality for the location. She shares the view of Mr Stewart at the Inquiry that it shares a "generic" quality of "family resemblance" to other blocks of flats elsewhere in the country (IR247). She considers that the proposal seems somewhat utilitarian and does not consider that the proposal reinforces local distinctiveness or is attractive for such a prominent location.

19. The Secretary of State particularly shares the view of CABE (document CD J14) that the proposed 8-storey tower lacks inspiration and does not display the level of thinking or rigorous approach that is expected of such a significant proposal. She considers that this is particularly the case when looking at it from Flambard Way (document CD J18). Furthermore she considers that the proposal would have an adverse visual impact when looking at it from the hills which overlook the town centre (document CD J18). In her view the flat roof of the appeal proposal, together with the glazing running along the top levels of Blocks B, C and D, does not relate well to the adjacent "Atrium".

20. The Secretary of State agrees with the Inspector that, for all intents and purposes, there are no views of the appeal site from within the Conservation Area (IR374). Given this consideration, and the Secretary of State's agreement with the Inspector that an intensive development of the scale proposed would be appropriate to its setting and complement the character of the area (IR379), she agrees with the Inspector that there would be no material effect on the character and appearance of the Conservation Area (IR385).

21. Having taken into account the views of CABE, and the Inspector, the Secretary of State is satisfied that the site could accommodate buildings of the scale, height

and mass proposed. However, she considers that the specific design before her fails to achieve sufficient quality in terms of its architecture and detailing. As a result, the Secretary of State considers that the proposal would fail to take the opportunities available to improve the character and quality of the area, and would harm the character and appearance of the surrounding area. She considers that the proposal would conflict with important aspects of LP policy TC6 and with the aims of PPS1. She also considers that the proposal conflicts with SP policy SE4 and LP policies D1 and D4 in this respect. In reaching this conclusion, the Secretary of State has taken into account that landscaping and materials are matters which may be dealt with by condition (IR384), but she does not consider that these conditions would overcome the deficiencies mentioned above.

b) Effect on the setting of Olde Steppe House

22. The Secretary of State agrees with the Inspector that there are very few locations that offer a good view of Old Steppe House (IR387), and that the most important view is from Flambard Way at its junction with Brighton Road (IR388). She accepts that the main change would be an alteration to the view beyond and to the side of the Old Steppe House (IR389). She accepts that the proposal would remove an unattractive police building and, although she has significant concerns about the design of the proposed development, she considers that, overall, the setting of Olde Steppe House would not be materially affected. On balance, therefore, the Secretary of State considers that the building would continue to enjoy the modest exposure that presently exists, and important space about the property would not be compromised by the intrusion of unsympathetic development (IR390). She considers that the proposals would accord with SP policy SE5 and LP policy HE3.

c) Effect on the occupiers of nearby properties

23. The Secretary of State agrees with the Inspector, for the reasons set out in IR391-394, that there would be no overbearing impact on the occupiers of nearby properties nor would their daylight, sunlight or privacy be unduly affected (IR394). She considers, like the Inspector, that the proposals comply with SP policy SE4 and LP policies D12, D4 and TC6 in this respect.

d) Provision for affordable housing

24. The Secretary of State agrees with the Inspector that the site would be expensive to develop and would involve abnormal costs such as the treatment of contaminated land (IR395). The Secretary of State is also satisfied that there is a clear link between the appeal site and the Langham Park site (IR397), and that the scheme should be determined on the basis of present market values (IR403). In this particular case, she agrees with the Inspector that market conditions dictate that the provision of affordable housing on site, even at some reduced quantum, would not be viable (IR403). She also considers that there will be some benefit of 38 affordable dwellings at Langham Park. However, in this particular case she notes the appellant's case that the proposal will not provide any new affordable housing in its own right, but rather enable affordable housing at Langham Park if the development proceeds (IR396). In these circumstances, she considers that the delivery of off-site affordable housing is a benefit which should be accorded limited weight. Overall, she

considers that the objectives of SP policy DN11 and LP policy H5 would not be prejudiced (IR403).

e) Safety and free flow of traffic

25. The Secretary of State agrees with the Inspector, for the reasons set out in IR 404-408, that the safety and free flow of traffic would not be prejudiced by this proposal, and that the development would accord with SP policy DN2 and LP policy M2 (IR408). She also agrees with the Inspector, for the reasons set out in IR408, that had planning permission be granted it would be necessary to review condition 27 to create greater stacking space for incoming traffic in front of the proposed gates.

f) Provision for cyclists, indoor sport and education

26. The Secretary of State agrees with the Inspector, for the reasons set out in IR409-411, that there would be adequate provision for cyclists under the scheme proposals in accordance with LP policy TC6.

27. For the reasons set out in IR412-413, the Secretary of State agrees with the Inspector that a contribution towards improvements to the existing leisure centre at Godalming is not necessary. She considers that there would be no conflict with SP policies DN1 and DN13 and LP policy D14.

28. The Secretary of State also agrees with the Inspector, for the reasons set out in IR414-420, that an education contribution would not be necessary in this particular case, and that there would be no unacceptable demands on education provision.

g) Other matters

29. The Secretary of State had had regard to the emerging RSS, and notes that policy H1, which sets out the proposed housing requirements, remains unchanged from the Examination in Public Report recommendations for the area in which the appeal site is situated. She considers it reasonable to include the appeal site as part of calculations since it is already an allocated site. On this basis, she agrees with the Inspector that there exists a five-year supply of deliverable housing land supply, as is required by PPS3 (IR421). She also agrees with the Inspector that the position of housing land supply is not an overriding consideration in this particular case (IR422). She also agrees with the Inspector that redevelopment of the site would bring about regeneration benefits, remediation of a contaminated site and improvements to infrastructure (IR425).

30. The Secretary of State agrees with the Inspector that there would be an appropriate mix of size and type of dwellings (IR423), and that the location offers a realistic and appropriate choice of transport access (IR423). She also considers that there is no suggestion that the objectives of existing or emerging guidance on town centres would be undermined by the proposed 10 small units that could be used for retail or other town centre purposes (IR424).

Planning Conditions and Obligations

31. With the exception of condition 5, as indicated in paragraph 33 below, the Secretary of State agrees with the Inspector that the proposed conditions set out in Appendix A to his report are necessary and would satisfy the tests set out in Circular 11/95 (IR429), but she considers they do not overcome her reasons for refusal.

32. The Secretary of State has considered the signed, dated and executed planning obligation submitted in the form of a Unilateral Undertaking and national policy as set out in Circular 05/2005. She notes that the Inspector considers that the planning obligation submitted would comply with the requirements of Circular 05/2005 (IR361).

33. The Secretary of State agrees with the Inspector that a planning obligation would be necessary to deliver the benefits proposed. However, Surrey County Council, the Council and Surrey Police Force own part of the land which forms the proposed development and its use and development will not be controlled under the terms of the Undertaking. The Secretary of State does not consider that condition 5, as proposed by the Inspector, addresses this deficiency. The Secretary of State is therefore not satisfied that the proposal would be carried out in accordance with the provisions of the planning permission as it does not bind all the Parties which own the land. Overall, the Secretary of State concludes that the planning obligation is not acceptable as currently drafted. However, even if the Undertaking was signed by all relevant parties, she does not consider that it overcomes her concerns about the design of the scheme.

Conclusion

34. The Secretary of State considers that the proposal would represent the redevelopment of a contaminated site in a sustainable location, and that the proposal would assist in meeting the supply of housing required in the Council's area. She also considers that it would bring broader regeneration and infrastructural benefits. The Secretary of State also considers that the provision of affordable housing at Langham Park is a net benefit, albeit of limited weight given the circumstances of this particular case.

35. In design terms, the Secretary of State is of the view that the site could accommodate buildings of the scale, height and mass proposed. However, for the scheme to meet the requirements of PPS1, the design has to be of a high quality and reinforce local distinctiveness. In this particular case the Secretary of State considers that the proposal fails to take the opportunities available to improve the character and quality of the area, and does not reinforce local distinctiveness. She considers that the deficiencies in the design of the scheme weigh heavily against the proposal. Overall, the Secretary of State has taken the benefits of the scheme into account but concludes that, on balance, the proposal conflicts with the development plan. She considers that there are no other material considerations which require her to determine the appeal other than in accordance with the development plan. She considers that planning permission should be refused.

Formal Decision

36. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. She hereby refuses planning permission for demolition of the existing buildings and new development comprising residential accommodation and commercial floorspace within Use Classes A1, A2, A3, B1, C3, D1 and D2 (as alternative uses), replacement of the existing police station, and provision for car parking and associated highway, access and landscaping works on land at Flambard Way, Catteshall Lane and Woolsack Way, Godalming, Surrey in accordance with application number WA/2007/1390, dated 8 June 2007.

Right to challenge the decision

37. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks of the date of this letter.

38. A copy of this letter has been sent to Waverley Borough Council and all parties who appeared at the inquiry.

Yours faithfully

Mark Plummer
Authorised by the Secretary of State to sign in that behalf