

ANNEX Aii

From: Eke-Goodwin, Paige [REDACTED]
Sent: 23 February 2023 14:55
To: Melissa Turney <Melissa.Turney@surreyheath.gov.uk>
Subject: RE: 22/0828/FFU Land To The West Of Church Road Church Road West End Woking Surrey

Dear Melissa,

Thank you for granting me an extension and allowing me to get back to you at a further date. I have consulted my colleagues on this and our objection to application 22/0828/FFU still stands.

Since Natural England's initial response in December 2022 (attached) there has been no submission of further documentation or information aside from what was already provided with the initial consultation. There is therefore still not enough certainty that the proposed development would not result in an adverse effect on integrity on the Thames Basin Heaths Special Protection Area (SPA).

As the application stands, the proposed development consists of six individual self-contained dwellings which is unacceptable within 400m of the Thames Basin Heaths SPA. If the applicant wishes to make this proposal acceptable in our view, the use of the property would need to be restricted to a C2 nursing care home, such as that in the two cases referenced by the applicant – Weyburn Works and Orchard Cottage. This would involve a re-design of the layout as well as needing to have parking restrictions in place. However, given that the proposal has not changed since we were first consulted, Natural England still maintain the objection issued.

I hope this response is useful but please do not hesitate to reach out if you require anything further.

Best Wishes,

Paige Eke-Goodwin (She/Her)
Sustainable Development Lead Advisor
Natural England

www.naturalengland.org.uk

<https://twitter.com/NEThamesSolent>

<https://www.facebook.com/NEThamesSolent/>

Thriving Nature
for people and planet



From: Melissa Turney <Melissa.Turney@surreyheath.gov.uk>
Sent: 26 January 2023 16:03
To: SM-NE-Consultations (NE) [REDACTED]
Subject: 22/0828/FFU Land To The West Of Church Road Church Road West End Woking Surrey

You don't often get email from melissa.turney@surreyheath.gov.uk. [Learn why this is important](#)

Afternoon,

In relation to the above application (22/0828/FFU), thank you for your consultation response dated 13 December 2022. Following this the agent has provided further information by way of email and I would ask if you could consider the below information and let me know your comments/ if your viewpoint would change.

Email content from the agent:

Natural England Comments

The relevant Planning Statement, proposed letter of appointment and ecology report are attached for ease. The proposed necessary and rigid conditions mean that they proposed scheme would if anything result in a lesser likelihood of any recreational pressure upon the SPA than even would be the case with for example a C2 use care home development such as that approved in the Weyburn Works or Orchard Cottage cases. The Council can have confidence in the conditions being complied with by virtue of the site remaining in the ownership and management of the Chobham Poor Allotment Charity in perpetuity. This can be secured through a legal agreement attached to a planning permission. The relevant section from the Planning Statement provides greater detail and we would be grateful if you could engage with NE as to their response. Should NE have any further queries etc. we would be happy to meet with them online and include Adrian Meurer of HDA in that dialogue.

Thames Basin Heaths SPA

3.1. The Council's approach to development within proximity to the Thames Basin Heaths SPA is detailed in Policy CP14B:

The Council will only permit development where it is satisfied that this will not give rise to likely significant adverse effect upon the integrity of the Thames Basin Heaths Special Protection Area and/or the Thursley, Ash, Pirbright & Chobham Common Special Area of Conservation.

All new residential (net) development within 5km of the Thames Basin Heaths Special Protection Area is considered to give rise to the possibility of likely significant effect. Accordingly only new development that complies with the following requirements will be permitted.

- (i) No (net) new residential development will be permitted within 400m of the SPA.**
- (ii) Non-residential development within 400m of the SPA will be required to demonstrate that it is not likely to have a significant effect either alone or in combination with other plans or projects.**

Proposals for residential development elsewhere in the Borough will be required to provide appropriate measures to avoid adverse effects upon the Thames Basin Heath Special Protection Area in accordance with the Borough Councils adopted Avoidance Strategy (or as subsequently amended).

3.2. Whilst the site lies within the 400m buffer to the SPA, the Ecological Appraisal is clear in concluding that the development would not have a likely significant effect upon the site, either individually or in combination. This is as a result of three primary factors. Firstly, the proposed dwellings are specifically designed for those with limited mobility. This is a key factor in the scheme proposing a terrace of six 1 bedroom bungalows, thereby avoiding stairs and other internal features which will impede the movement of residents. Secondly, through the oversight of resident's behaviour through the almshouse being managed by the Chobham Poor Allotment Charity and the almshouses not being occupied other than by persons defined by specific qualifying criteria. Third, that there will be no keeping of cats on the site.

3.3. The Ecological Appraisal (section 8.2) refers to the measures included in the proposal which ensure that the scheme avoids impacts upon the SPA, notwithstanding its location within 180 metres of the site. This is specifically covered in paragraphs 8.2.2 to 8.2.7 of the Appraisal as extracted below:

Any development proposals for the site therefore need to consider potential effects on the ground nesting bird populations for which the SPA is designated and ensure that there are no overall adverse effects as a result of development by implementing avoidance and mitigation measures as appropriate. A full description of the constraints of the Thames Basin Heaths SPA to development and required approach to mitigation is provided in the *Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (SPD)* (SHBC, 2012).

SHBC's SPD identifies that net gains in standard residential development within 400m of the SPA would not normally be allowed due to risks of recreational pressure and cat predation on ground nesting birds for which the SPA is designated. However, it is recognised that exceptions can and do arise. Paragraph 3.3 of SHBC's SPD states:

“3.3 Developments within Use Class C2 (Residential Institutions) may be considered to give rise to likely significant effect to the SPA. Such developments may be required to contribute towards avoidance measures. Applications for C2 development will be considered on a case-by-case basis and in reaching a decision the Council will take into consideration how the development will be used and occupied. In the case of Residential Institutions with permanent residents, such as care/nursing homes, the likely activity levels of the residents will be taken into account in assessing whether the development is likely to give rise to a significant impact on the SPA. Natural England will normally be consulted on such applications.” (SHBC, 2012)

This is reflected in the planning appeal decision for the Weyburn Works Care Home, a 60 bed care home located within 400m of the Thames Basin Heaths SPA. Paragraphs 105-106 and Condition 11 of the appeal decision state:

“105. The care home is within 400 metres of the SPA and Natural England confirm that increases in residential accommodation within the 400 metre limit are not normally accepted unless it can be established that there would be no likely significant effect upon the SPA from additional recreational pressure. To that end it has confirmed that a care home would be acceptable provided conditions are imposed to ensure that residents of the care home have limited mobility and require full time nursing.

106. The Appellant disputes the necessity for such a condition on the basis that persons moving into a care home are likely to have limited mobility in any event. Further the Appellant contends that such persons would not have access to their own motor vehicle and would be unlikely to be able to walk the requisite distance to the SPA. I do not accept the Appellant’s proposition. The proposal is seeking a general class C2 care home use, rather than an institution where higher levels of care are required. In the circumstances I agree that, if I were minded to allow the appeal, such a condition would be reasonable and necessary. This condition together with provision of the SANG would satisfactorily protect the SPA from additional recreational pressures when the development is considered either in isolation or combination.”

“[Condition] 11. The Care Home hereby permitted shall not be occupied other than by persons of limited mobility and who require full time nursing. Persons of limited mobility shall be defined as persons whose physical condition prevents the walking beyond 400 metres. Such a physical condition shall first be verified by the Care Home Operator by means of a referral from a General Practitioner prior to the occupation of the Care Home by any potential resident.”

With regard to the above and the six proposed single-bedroomed residential units at the Church Road, West End site, it is proposed that the units are allocated exclusively to persons who are physically frail, have mobility problems, suffer from paralysis or partial paralysis or are in need of assistance for independent living. Additionally, no dogs would be allowed on the site to remove the risk of visitors using the site as a base for dog walks on the SPA. This would be managed by Chobham Poor Allotment Charity who would retain ownership and assignment of the residential units throughout the lifetime of the proposed development, and this would be secured in an appropriate legal agreement, including reflection in the Letter of Appointment to be signed by the resident prior to occupying the Almshouses.

In addition, in order to avoid any risk of increased cat predation no resident would be allowed to keep a cat on the premises. This would be enforced by the Chobham Poor Allotment Charity.

In keeping with the above, the proposed clauses for the Letter of Appointment included in the Planning Statement (Woolf Bond Planning, 2022) and the example condition included in the consent for the Weyburn Works Care Home scheme, it is proposed that the following conditions of planning consent are included as part of any permission granted for the proposed development.

Condition X. The Almshouses shall not be occupied other than by persons defined by the qualifying criteria for occupancy set out at clause (246) of the Letter of Appointment.

Condition XX. Consistent with clause (137) of the Letter of Appointment, no dogs or cats are to be brought on to the site by either residents or visitors to the Alms Houses.

Condition XXX. The Alms Houses shall not be used for any other purpose within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any other statutory

instrument and notwithstanding any provisions either in force or enacted at a later date there shall be no permitted change of use.

Condition IV. The restrictions on occupancy of the Alms Houses and pets set out in Condition X and Condition XX above will be reflected in the resident's handbook and terms and Letter of Appointment which will be entered into by each resident before occupancy. The Alms Houses will not be occupied until the above mentioned terms and conditions have been signed by the resident".

- 3.4. As mentioned, the Council's SPD does acknowledge that exceptions can and do arise to the 400 metre rule. Indeed, the Weyburn Works Care Home example confirms that a condition ensuring that the residents are of a limited mobility and therefore unable to create additional recreational pressure upon the SPA was entirely appropriate. Each resident will have to agree to the qualifying criteria for occupancy set out in a Letter of Appointment to be signed prior to a resident occupying an Almshouse. Further, the Letter of Appointment will ensure that there will be no keeping of dogs or cats on the premises at any time nor shall any visitor bring a cat or dog onto the premises at any time. The proposed clauses to be included in the Letter of Appointment are set out below:

Clause (13) in the Letter of Appointment to read:

"There shall be no keeping of dogs or cats on the premises at any time, nor shall any visitor bring a cat or dog onto the premises at any time".

Clause (24) in the Letter of Appointment to read:

"the qualifying criteria for occupancy is that the alms house can only be occupied by persons who are physically frail; have mobility problems; suffer from paralysis or partial paralysis; or is in need of assistance for independent living"

- 3.5. A template version of the proposed Letter of Appointment is appended to this statement.
- 3.6. A package of measures has been included within this proposal, namely, that applicants who live in the properties would have to demonstrate they the qualifying criteria for occupancy is that the alms house can only be occupied by persons who are physically frail; have mobility problems; suffer from paralysis or partial paralysis; or is in need of assistance for independent living. Such an approach is consistent with the wording used in condition 17 attached to a recent C2 use permission at Orchard Cottage (under LPA Ref. 21/0936/FFU). Further, no dogs would be allowed on the site to remove the risk of visitors using the site as a base for dog walks and no resident would be allowed to keep a cat on the premises. A range of planning conditions (nos. X to IV set out in the quotation above) are specifically proposed to secure these measures and ensure that no adverse effect of recreational pressure would occur from the development. These necessary and rigid conditions mean that they proposed scheme would if anything result in a lesser likelihood of any recreational pressure upon the SPA than even would be the case with for example a C2 use care home development such as that approved in the Weyburn Works or Orchard Cottage cases. The Council can have confidence in the conditions being complied with by virtue of the site remaining in the ownership and management of the Chobham Poor Allotment Charity in perpetuity. This can be secured through a legal agreement attached to a planning permission.
- 3.7. Therefore, consistent with the conclusions of the Ecological Appraisal, the scheme would not have a likely significant effect upon the SPA, either alone or in combination with other schemes. Therefore, with the inclusion of the management arrangements and requirements for residency, the scheme is therefore acceptable, notwithstanding its proximity to the SPA. As indicated in the Ecological Appraisal, such a finding is consistent with the views of Natural England as confirmed in the appeal decision at the Weyburn Works site^[1].

Should you require any further information please don't hesitate to get in touch.

Kind Regards
Melissa Turney
Senior Planning Officer



Planning Services, Finance & Customer Services Directorate
Surrey Heath Borough Council
Surrey Heath House, Knoll Road, Camberley, Surrey, GU15 3HD
Tel: 01276 707208
Email: melissa.turney@surreyheath.gov.uk
Web: www.surreyheath.gov.uk

SURREY HEATH DISCLAIMER

This email and any attachments are intended for the addressee only. The information contained in this email is accurate at the time of sending however the council cannot account for events beyond the Councils control which may change the accuracy after the date of sending. The information contained in this email is confidential and may be legally privileged. If you are not the intended recipient, the use of the information contained in this email or any disclosure, copying or distribution is prohibited and may be unlawful. If you have received this email in error please notify the sender immediately. Surrey Heath Borough Council reserves the right to monitor all incoming and outgoing email to ensure compliance with current procedures. This email has been checked for computer viruses prior to sending, but it is also your responsibility to virus check the email upon receipt. For contact and service information, please refer to www.surreyheath.gov.uk

This message has been sent using TLS 1.2 This email and any attachments is intended for the named recipient only. If you have received it in error you have no authority to use, disclose, store or copy any of its contents and you should destroy it and inform the sender. Whilst this email and associated attachments will have been checked for known viruses whilst within the Natural England systems, we can accept no responsibility once it has left our systems. Communications on Natural England systems may be monitored and/or recorded to secure the effective operation of the system and for other lawful purposes.