

Guildford Borough Council's response to questions regarding the approach to Thatcher's and land at Heath Drive Send

1. What is the Council's approach to the Thatcher's Hotel in East Horsley, which I am informed (see Rep/17340193/001) has been included as a housing site in the East Horsley Neighbourhood Plan, which was passed by referendum on 17 May 2018 and (presumably) now forms part of the development plan. What are the issue, if any, for the Guildford Borough Local Plan Strategy and Sites, and in particular Policy E6(3)?

What is the Council's approach to the Thatcher's Hotel in East Horsley?

Policy E6 of the Local Plan Strategy and Sites (LPSS) states:

(3) The loss of existing visitor, leisure and cultural attractions, including arts and entertainment facilities, hotels and indoor sports venues, will be strongly resisted unless replacement facilities of an equivalent or better standard and provision are proposed in a location equally accessible to the facility's current catchment area. Alternatively, robust evidence must be provided that demonstrates that the facility causes significant detriment to the amenity of the locality or that:

(a) there is no longer a need for the existing facility or an alternative leisure or visitor use; and

(b) the existing use is unviable and its retention has been fully explored (including active and comprehensive marketing the facility for its existing and alternative leisure or visitor use for a continued period of at least 18 months prior to submission of a planning application).

The Land Availability Assessment identifies the site as a discounted site due to a planning appeal decision which found that there was insufficient evidence to justify the loss of the hotel.

What are the issues, if any, for the Local Plan Strategy and Sites, especially policy E6(3)?

The East Horsley Neighbourhood Plan has passed referendum and forms part of the Development Plan for the borough. It includes policy EH-H6: Thatcher's Hotel Site, which grants planning permission for development of dwellings on the site, subject to a number of criteria.

There is no conflict between the LPSS and the East Horsley Neighbourhood Plan. Criteria f of policy EH-H6 states "*The loss of the hotel facility must be appropriately justified in the planning application in accordance with the applicable adopted local plan policy.*" This means an application must satisfy both LPSS policy and policy EH-H6 together (not one or the other), and this is acknowledged in EH-H6.

2. What is the basis for extending the protection conferred by Policy ID4(8) to land at Heath Drive, Send, which has been designated open space on the Policies Map notwithstanding that it is private land inaccessible to the public? (see Rep/15672545/001). Does the NPPF and the PPG provide support for this approach?

Does the NPPF and PPG provide support for this approach?

The NPPF (Glossary, page 54) defines open space as follows:

“All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.”

It is clear that a pre-requisite of open spaces is that they provide some form of public value. Apart from that criterion, the definition is a broad one. Open space includes, but is not limited to, areas of land and water which offer opportunities for sport and recreation, as well as those that provide visual amenity.

This broad definition is confirmed by the Planning Policy Guidance (PPG) which states:

“Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure (see National Planning Policy Framework paragraph 114), as well as being an important part of the landscape and setting of built development, and an important component in the achievement of sustainable development (see National Planning Policy Framework paragraphs 6-10).” (PPG ID: 37-001-20140306, our emphasis).

There is no indication in either the NPPF or PPG that an open space can only have public value if it is publically accessible. To the contrary the PPG outlines a number of attributes an open space can have which contribute to its public value and which are not dependent on the space being publically accessible.

Furthermore it has been suggested in some representations that “open space must be accessible for sport and reaction”. The Council consider this to be an erroneously narrow interpretation of the definition of open space found in the NPPF and PPG.

In addition to the definition of open space in the NPPF, paragraphs 73 and 74 are also relevant in terms of sport and recreational use. In particular, paragraph 73 provides that:

“Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. . .” (Our emphasis).

The use of the word “and” in the first sentence of paragraph 73 indicates that open spaces do not have to be exclusively for sport and recreation. The second sentence describes “open space”, “sports [facilities]” and “recreation facilities”, indicating that open space is distinct

from sports and recreation facilities. This supports a broad definition of Open Space that does not simply refer to land that can be accessed for recreation.

The case of *R(on the application of Loader) v Rother District Council and others* [2015] EWHC 1877 (Admin)¹ is also of relevance. In it Patterson J explained that

“69. In my judgment the paragraphs [referring to paragraphs 73 and 74 of the NPPF] are dealing with public access to high quality open spaces and, separately, opportunities for sports and recreation. Open space is clearly intended to mean something different from sports and recreational facilities in the local area as it is itemised separately...”

Having made reference to paragraphs 76-77 NPPF regarding Local Green Spaces, the judge continued:

“71 The defendant is clearly correct when it submits that the NPPF is to be read as a whole. Within the glossary, ‘open space’ is defined as including ‘All open space of public value...which offer important opportunities for sport and recreation and can act as a visual amenity.’ The assessment required under paragraph 74 has to be consistent with that definition. It follows that the assessment is not to be limited just to areas of land which are for active recreational use. That is not what a true reading of the paragraph says nor, indeed, is it consistent with healthy communities as contained within section 8 of the NPPF...”

This supports the position that open space can be separate from opportunities for sports and recreation.

In view of the above, it is clear that the NPPF, PPG and case law support a broad definition of Open Space that is not limited to land that has recreation value, nor land that is publicly accessible.

What is the basis for designation land at Heath Drive, Send as Open Space?

The Council has produced the [Assessment of Sites for Amenity Value](#) (the assessment). The purpose of the assessment is to assess any open land that falls within the proposed village inset boundaries to see whether it has public amenity value and should therefore be protected as Open Space. Land at Heath Drive, Send is site number ETH_084 in the assessment. Page 86 includes a description of the site as follows:

“Evidence of informal access into the site off a cul-de-sac, however, signage indicates site is private and not accessible to the public. Site is woodland – sycamore dominated semi-mature trees with nice understory, some very mature oak and chestnut trees. View in and out of site. Site has aesthetic and biodiversity value.”

This description is an update of an earlier version; when the site was first visited it was found to be publicly accessible and was assessed as having recreational, biodiversity and aesthetic value. However, the landowner objected to the assessment as the land was in

¹ Loader was overturned on appeal ([2016] EWCA Civ 795). However Patterson J’s interpretation of the meaning of open space was not criticised.

private ownership and erected signage to signify this. The site was then reassessed and recreational value was removed from the assessment, as the final description shows.

Table 2 in the assessment notes that the site has an amenity score of “medium” (page 141). The site is included in table 3 which is a list of sites where development or partial redevelopment would be possible whilst retaining public amenity value, noting “*Partial development [of ETH_084] could retain and potentially improve amenity value*”.

Conclusion

The site does not hold recreational value, but it does hold public value for biodiversity and visual amenity, and it is on this basis that the plan seeks to protect it.

The Open Space designation does not prevent development on this site as the evidence base makes it clear that development can be accommodated if it is done sensitively and preserves the specific features that provide public value. The Land Availability Assessment reflects this assessment, including the site as a potential development site (site 52) with a capacity of approximately 20 homes.

The lack of recreational value does not prohibit designation of the site as public Open Space and therefore the designation is considered appropriate.

17 July 2018