



Appeal Decision

Site visit made on 7 April 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Appeal Ref: APP/R3650/W/20/3264022

Chinthurst Ridge, Chinthurst Lane, Bramley, Guildford GU5 0QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs C Bouckley against the decision of Waverley Borough Council.
 - The application Ref: WA/2020/0786 dated 12 May 2020, was refused by notice dated 15 October 2020.
 - The development is change of use of land for use as an extended area of garden.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr & Mrs C Bouckley against Waverley Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Both the Appellant and the Council confirm that the development has been undertaken and the area of land is now used as part of the residential garden of the appeal property. Accordingly, I have dealt with the appeal on that basis.
4. There is information before me relating to a concern over tree felling raised by the Forestry Commission, but that is a matter that would be dealt with separately.

Main Issues

5. The main issues in this appeal are:
 - a) Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - b) Its effect on the character and appearance of the local area, with particular regard to its location within an Area of Great Landscape Value, and including neighbours' amenities;
 - c) Its effect on the setting of the adjacent listed building, Chinthurst Hill;
 - d) Other considerations; and

e) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, does this amount to the very special circumstances required to justify the change of use.

Reasons

Issue a) Whether inappropriate development

6. Chinthurst Ridge is a substantial detached dwelling in large grounds on Chinthurst Hill with access leading off Chinthurst Lane, in a rural location. Land within its ownership include both formal garden areas immediately around the house and at the rear of the house, leading into more informal areas of wooded and rough grassland. Reflecting the location on Chinthurst Hill much of the land is sloping with the main house and rear amenity space on a level terrace. The site is within the Green Belt and within an Area of Great Landscape Value (AGLV).
7. The appeal site relates specifically to a piece of sloping land, some 0.12ha in size, beyond the formal lawned garden; at the time of my site visit it was rough grass with a children's swing but there were no clear boundary demarcations to this land. Whilst I understand that the land all falls within the same ownership, there appears to be no dispute between the Appellants and the Council that the land the subject of this appeal falls outside of the established and recognised domestic curtilage and that planning permission is therefore required for its use as garden. I have no information before me to take a different view.
8. Policy RE2 of the Council's Local Plan (Part 1) 2018 (Local Plan 2018) indicates that the Green Belt will be protected from inappropriate development in accordance with the NPPF (National Planning Policy Framework).
9. The National Planning Policy Framework (Framework) sets out the government's planning policies to secure sustainable development. Paragraph 133 sets out the great importance that the Government attaches to Green Belts and that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 143 confirms that *inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances*. Paragraphs 145 and 146 set out the categories of development which may be regarded as not being inappropriate, including at Paragraph 146 e) *material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)*. All the categories of development falling within Paragraph 146 are only to be regarded as not inappropriate if they preserve its openness and do not conflict with the purposes of including land within it.
10. The Council has contended that the use as residential garden does not fall within the scope of Paragraph 146 e). However, the use of the words 'such as' indicates that the potential material changes of use which would fall within this category are not limited to outdoor sport or recreation or cemeteries and burial grounds. The key consideration relates to whether the change of use would preserve the openness of the Green Belt and would not be in conflict with the purposes of including land within it.
11. The Appellants have advised that the area is in use as a dedicated play area and have referred to two pieces of play equipment sited there, a swing and a

climbing frame. The Appellants have further confirmed that, if permission were granted, they would be prepared to accept conditions to remove permitted development rights for incidental buildings and boundary fences and walls and the like. They have further contended that they do not consider that pieces of play equipment are development and would not therefore require planning permission. I have set out in some detail the basis of my understanding of the Appellants' case as this is directly pertinent to my consideration of the issues.

12. The first consideration is therefore whether the change of use retains the openness of the land. Whilst the change of use, taken on its own, from countryside within the ownership of the Appellants to residential use could retain openness, it is clear from the existing play equipment on the land and the information provided that the land is being used to site play equipment and potentially other equipment or structures to meet changing family needs, whether or not they are or would be formally defined as development.
13. These structures might be changed from time to time, but they do currently introduce domestic paraphernalia into a very open area of land, free from any structures or equipment. They are relatively small in scale and of natural materials but, nonetheless, the introduction of this equipment into this very open rural area of land does in my view impact on both the inherent spatial and visual dimensions of openness of this land. I therefore have no doubt that they have an impact on openness.
14. Paragraph 134 sets out the purposes served by the Green Belt, and in this context criterion c) *to assist in safeguarding the countryside from encroachment* is, in my view, most relevant. Although there is no boundary divide, there is a clear visual distinction between the maintained garden with both hard and soft landscaping and large areas of level lawn, serving the house as its amenity area, and the open rough grassland beyond, including the area of land of the change of use. This has the distinct appearance of open countryside rather than domestic garden. It is my view that the change of use with the introduction of play equipment does not accord with one of the purposes of the Green Belt, namely, to assist in safeguarding the countryside from encroachment.
15. It is therefore my conclusion that, taking into account the current and intended use of the area as set out by the Appellants, that the change of use does not fall within paragraph 146 e) of the Framework. It is therefore inappropriate development, which the Framework states is, by definition, harmful to the Green Belt.

Issue b) Effect on the Character and Appearance of the Local Area, including neighbours' amenities.

16. The site lies within the countryside and an AGLV. There is limited information before me on potential viewpoints of the appeal site provided by either the Appellants or the Council, but the appeal site and the equipment can be glimpsed from Chinthurst Lane. The views are of open countryside with a wooded background and I consider that the change of use with the play equipment installed are an incongruous and visually intrusive feature within the open, rural landscape.
17. I conclude that the change of use, in the particular circumstances of this case, does not respect but harms the special landscape quality of the countryside

and the AGLV. This conflicts with Policies TD1 and RE3 of the Local Plan 2018 and Policies D1 and D4 of the Waverley Borough Local Plan 2002 (Local Plan 2002) in this regard. This adds to the harm I have already concluded.

18. However, given the distances involved between the appeal site and the neighbouring properties I do not consider that there is any material adverse impact on the living conditions of the nearest neighbours. They may be able to see the appeal site and the equipment located there, but given the intervening distances, their living conditions are not adversely affected. There is no conflict with Policies D1 and D4 of the Local Plan 2002 with specific regard to protecting the amenities of neighbours. The Council has also agreed that the living conditions of the neighbours are not affected.
19. The right to a view is not a planning matter and I am not persuaded from the limited information before me that there is a different planning issue relating to visual amenities, raised by the Council. No further harm is added in this respect.

Issue c) Effect on the Setting of the adjacent Listed Building

20. The designated heritage asset of Chinthurst Hill is sited to the east of the appeal site and is Grade II listed and it is a large house designed by Sir Edwin Lutyens with the garden terraces laid out by Gertrude Jekyll. The woodland relating to the house and gardens, containing woodland walks lead down to the boundary with the appeal site. The significance of the heritage asset, in my view, relates to the overall composition, including the house and its formal gardens and informal grounds on a hillside setting.
21. Section 66 (1) of the Planning (Listed Buildings and Conservations Areas) Act 1990 requires me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
22. Given the distance between the appeal site and Chinthurst Hill, and the nature of the change of use, together with the intervening woodland and gardens to Chinthurst Hill, I do not consider that the change of use leads to an adverse impact on the setting of the building itself. Given the overall size of the Chinthurst Hill site and the extent of its woodland and woodland walks, I also do not consider that the change of use materially affects the setting of the gardens. Furthermore, were no other matters of concern and planning permission were to be granted, a condition could be imposed, to require appropriate planting along the boundary with Chinthurst Hill to screen the appeal site from the listed building and its gardens.
23. There is no evidence before me from the Council to substantiate their concerns that the enjoyment of any parts of the garden is harmed from the change of use under consideration; nor that the any noise created is or would be detrimental to the tranquility necessary for the enjoyment of the woodland walks. Given its small scale and use related to one private residential dwelling, I am not persuaded that there is any material impact in these regards and that furthermore they do not affect the setting of the listed building and its gardens.
24. I am therefore satisfied that the change of use preserves the setting of this listed building. There is no conflict with Policy HA1 of the Local Plan 2018,

Policy HE3 of the Local Plan 2002 and the Framework with particular reference to Section 16, all of which relate to preserving designated heritage assets, including their setting.

Issue d) Other Considerations

25. The Framework indicates at paragraph 144 that substantial weight should be attached to any harm to the Green Belt. Very special circumstances to justify such development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I now turn to the other considerations in support of the development which have been put forward, which I have not already addressed under my main issues.
26. I agree that the area of land the subject of this appeal is relatively small in relation to the Appellants' overall landholding. However, the harm I have identified is primarily related to the change in the use of the land and its effect on openness and the character and appearance of the local area, regardless of size. This does not add weight in support of the proposal.
27. The Appellants have put forward that the appearance of the land does and would not have a domesticating effect on the land or its surroundings. I have also taken into account the conditions put forward by the Appellants to remove permitted development rights for outbuildings and for further landscaping. However, the Appellants are clear that the land is and would be used for play equipment and this in my view appears incongruous and does harm the openness of the Green Belt and the rural landscape qualities of the local area and AGLV. This therefore limits the weight that I can afford to these arguments and the offers of conditions.
28. The presence of the stone steps, which were once part of Chinthurst Hill and are now within the land belonging to Chinthurst Ridge does not offer any support for the change of use; there is no information before me to indicate that the land forming the appeal site was once part of any residential curtilage.
29. The points relating to the reasons for the tree felling are noted but do not add support for the change of use of the land. I also do not follow the Appellants' argument that the removal of trees has improved the physical link with the remaining garden serving the appeal property; this indicates a change in the character and appearance of the land which elsewhere the Appellants have sought to indicate to be negligible. This does not add weight in support of the change of use.
30. The Appellants have provided me with two appeal decisions, one relating to the change of use to residential garden under Ref: APP/H1840/W/19/3235302 and one relating to a portable shelter for practice tee at a golf club under Ref: APP/N4720/W/18/3216727. Each case must be considered on its individual merits. I have, nonetheless, had regard to both of these decisions, but do not find that they are comparable with the case before me. They do not therefore afford weight in support of this change of use.

Issue e) Balancing of Considerations and whether very special circumstances exist.

31. I have already found that substantial weight must be given to the harm to the Green Belt by reason of the inappropriateness of the change of use. The harm

to the character and appearance of the local area and AGLV adds to this harm. The totality of the harm I have concluded is not clearly outweighed by the other considerations. I do not find that the very special circumstances required to justify the change of use exist. The change of use conflicts with the Framework and development plan policy with regard to protecting Green Belt land as well as the protection of the character and appearance of the local landscape.

32. For the reasons set out above and having regard to all other matters raised, including in representations, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR