



Appeal Decision

Site Visit made on 11 May 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2021

Appeal Ref: APP/R3650/W/21/3267462

Hurst Cottage, Combe Lane, Wormley, Godalming GU8 5TE

- 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 Wheatcroft against the decision of Waverley Borough Council.
 - The application Ref WA/2020/1446, dated 7 September 2020, was refused by notice dated 13 January 2021.
 - The development proposed is erection of a detached dwelling and associated works.
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Decision

1. The appeal is dismissed.

Costs

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

Preliminary Matters

3. A referendum on the Witley Neighbourhood Plan (WNP) was held on 6 May 2021. The Council has confirmed that the WNP passed referendum and will shortly be 'made'. I therefore attach full weight to the WNP in my decision as it now forms a part of the development plan for the area.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the Surrey Hill Area of Outstanding Natural Beauty (AONB) and Area of Great Landscape Value (AGLV);
 - the effect of the proposed development on protected species;
 - the effect of the proposed development on roadside trees; and
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

5. Hurst Cottage is located within the Metropolitan Green Belt. It is also within the undesignated settlement of Wormley. The appeal site is a large plot which forms part of the garden to Hurst Cottage. The appeal proposal is to subdivide the plot and construct a detached dwelling and garage.

Whether inappropriate development in the Green Belt

6. The Framework sets out in paragraph 133 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belts are their openness and their permanence. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. Paragraph 145 sets out that the construction of new buildings is inappropriate within the Green Belt subject to a number of exceptions, one of which is (e) limited infilling in villages. Policy RE2 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 (LPP1) seeks to protect the Green Belt against inappropriate development in accordance with the Framework. Neither the Framework nor the LPP1 define 'limited infilling' or 'villages'.
8. The parties dispute whether or not Wormley can be considered a village. Wormley is not designated within the development plan. The Council's Settlement Hierarchy (Factual Update 2012) refers to Wormley as a 'rural community with very limited services'. However, case law¹ has established that while a village boundary as defined in a local plan would be a relevant consideration, it would not necessarily be determinative. This would be a question of planning judgement based on an assessment of the position on the ground.
9. Wormley is characterised by linear residential development along Combe Lane and New Road which are the two main roads through the settlement. The northern section of Combe Lane, where the appeal site is located, is characterised by a small number of houses within large plots which form a loose pattern of development. Development is more regularly and closely spaced further south and along New Road.
10. Witley Station lies a short distance off Combe Lane. It is accessed off Station Approach which together with Robin Way, encloses a small cluster of modestly sized housing development. This includes a short cul-de-sac development, The Lofts, off Combe Lane. The station is the primary focus of the area and some small commercial enterprises are located around it.
11. Separated from this cluster of development, there is a small business park and additional housing development further south off Combe Lane and a private school and nursing home. Whilst Wormley lacks the day-to-day services and facilities, such as a shop, state school, church, public house or village hall, there is evidence that some of these facilities previously existed. The fact that these services no longer exist does not, in my view, mean that Wormley is no longer a village. In view of the extent of housing in the area, the range of non-residential development and the train station, I conclude that Wormley would be a village for the purposes of paragraph 145(e).

¹ Julian Wood v SSCLG and Gravesham Borough Council [2015] EWCA Civ 195

12. I note that the WNP describes Wormley as a hamlet. However, the Council has previously assessed Wormley as a village for the purposes of paragraph 145(e) of the Framework, including for a recent planning permission² for development of Land between 5 The Lofts and 7 Robin Way and a scheme for 2 flexible commercial units³. This adds weight to my assessment.
13. I turn now to whether or not the proposed would amount to limited infilling. In my experience, in order to be infilling a proposal must fill a space or gap between two other buildings or structures whether within a continuous built-up frontage or within built development.
14. Hurst Cottage is located between Willow House to the south, from which it is separated by a relatively small gap. To the north the road bends, and some distance from the shared boundary, lies Oakwood House, a detached house in a substantial plot which is set some distance back from Combe Lane with Birchwood House beyond. These two properties are positioned closer together than between Oakwood House and Hurst Cottage. Together, these properties form a loose pattern of development on the fringes of Wormley. The proposal would construct a dwelling between Oakwood House and Hurst Cottage.
15. The gap between Oakwood House and Hurst Cottage is substantial, and considerably wider than the space between properties either further south along Combe Lane or around the railway station. Oakwood House together with Birchwood House are both set some distance from Hurst Cottage and further back from the highway. Whilst the front boundary to these properties is characterised by suburban boundary planting, the built form is dispersed and for this reason these properties do not form a continuous built-up frontage. The construction of a house between these dispersed properties, whilst limited, due to the significant gap between properties, would not therefore amount to infilling.
16. I have been referred to the planning history for the appeal site, dating back to 1986, for the erection of a house and garage on the site. It appears that one of these was dismissed on appeal and the other allowed. However, I have no details of these developments nor what the local context would have been like 35 years ago at the time these decisions were made. I therefore give these previous decisions very limited weight.
17. The approved scheme for infill development at Land between 5 The Lofts and 7 Robin Way, although only a short distance from the appeal site, was located between two properties within a built up frontage. It was therefore infilling a gap within an otherwise built up frontage. It is not therefore comparable to the scheme before me which would occupy a more substantial gap.
18. Whilst I find that Wormley is a village, the proposed development would not amount to limited infilling. It would therefore not meet the exception set out in criteria (e) of paragraph 145 of the Framework. For this reason, I conclude that the proposal would be inappropriate development in the Green Belt. It would conflict with both Policy RE2 and national policy to protect Green Belt. In accordance with the Framework, I attach substantial weight to this harm.

² Council Ref WA/2018/0646 and WA/2019/0571

³ Council Ref WA/2018/1222 and WA/2018/2117

Openness of the Green Belt

19. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework although it is commonly taken to mean the absence of built or otherwise urbanising development. An assessment of openness requires a consideration of the scale of the development, its locational context and both its spatial and visual implications.
20. The appeal site is an area of undeveloped garden, driveway and parking, enclosed by boundary vegetation. This provides some screening of the host property which can only be glimpsed through the driveway entrance.
21. The proposed house would be substantial in size with accommodation over two floors. In combination with the large garage, this would significantly increase the amount of built development on the site. Whilst boundary vegetation would be retained which would provide some screening of the proposed development, it would nevertheless be visible in views into the driveway from the road. The proposal would result in buildings where there are currently none. These would be physically larger in all three dimensions than the limited area of hard standing that currently occupies part of the area that would be developed.

Consequently, the openness of the Green Belt would be reduced, both visually and spatially. In the context of the village location, this would be limited and localised in its effect. I conclude that the development would result in moderate harm to the openness of the Green Belt conflicting with the Framework's aims in that regard. I give significant weight to that harm.

Character and appearance

22. The appeal site lies within the Surrey Hills AONB and an AGLV. These areas are protected for their landscape and scenic beauty. Combe Lane, north of its junction with New Road, is characterised by linear development which becomes more loose and dispersed away from the central part of the village near the railway station. Housing development is set behind boundary hedges some of which has a suburban and domestic appearance. Nevertheless, the more dispersed nature of the development and the limited views of buildings gives the area a semi-rural character where houses do not dominate the street scene. This is in contrast to the more central part of the village around the railway station, further south along Combe Lane and along New Road where housing is more regularly spaced and suburban in character.
23. The proposed house would utilise an existing access north of Hurst Cottage. It would also be a little taller than Hurst Cottage. The subdivision of the plot to create a separate residential property with its own garden and detached garage would make the pattern of development less loose and dispersed. The proposed house would be visible alongside Hurst Cottage through the existing access which, in combination with its greater height, would make it visually prominent. Together with the additional comings and goings associated with a separate property, this would have an urbanising effect on the area that would erode its semi-rural character. This would not conserve or enhance the natural and scenic beauty of the landscape.

24. The proposed house would be of a relatively modern design, described as a 'contemporary interpretation of the traditional vernacular form within the area'. The design would incorporate significant areas of glazing which would add to its prominence. Whilst the character and design of properties within Wormley and along the nearby stretch of Combe Lane is reasonably diverse, the proposed design does not appear particularly traditional. As such, it would not respect local distinctiveness nor would it enhance its setting.
25. I conclude that the proposed development would harm the character and appearance of the Surrey Hills AONB and the AGLV. It would therefore conflict with Policies RE3 and TD1 of the LPP1. These policies together require new development to protect and enhance the character and qualities of the Surrey Hills AONB and the AGLV and to not harm the distinctive local character of the area in which it is located.

Ecology

26. Paragraph 99 of Government Circular 06/2005: Biodiversity and Geological conservation – Statutory obligations and their impact within the planning system (the Circular), states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it, '...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'.
27. The appellant has not submitted any ecological survey information. Surrey Wildlife Trust has indicated that the appeal site is in close proximity to potentially suitable habitat for protected species on and in close proximity to the site. This includes an area of deciduous woodland Habitat of Principal Importance on and adjacent to the site. In addition, there is also a pond indicated to be around 60 metres east of the site boundary.
28. In the absence of this survey information, I am unable to conclude that there would be no harm to protected species as set out in Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017. In accordance with the Circular, such information should be provided before any planning permission is granted. The proposal would therefore be contrary to Policy NE1 of the LPP1 which requires new development to contribute to the protection, management and enhancement of biodiversity.

Impact on trees

29. The front boundary of the appeal site is enclosed by a boundary hedge and two oak trees. There are a limited number of trees along this section of Combe Lane and these two roadside trees are attractive specimens that make a positive contribution to the verdant character along Combe Lane.
30. The proposed garage would be positioned towards the front of the site, close to the roadside trees and boundary hedge. The appellant has submitted a Tree Report⁴ which sets out that the proposed garage would be close to but largely outside the root protection area (RPA) of these trees. It indicates that there

⁴ Tree Survey, Arboricultural Implications Assessment & Method Statement, Indigo Surveys Ltd, September 2020

would be a slight incursion into the RPA of one of the trees to provide hard surfacing for the access.

31. In view of the very limited extent of the incursion into the RPA and the proposed construction methods which would include using a 'no dig' design, the harm to the long-term health of this tree would be very limited. Had I been minded to allow the appeal, I would have imposed a suitably worded condition to secure the protection of this tree during construction.
32. I conclude that the proposed development would not harm the roadside trees. It would therefore accord with Policies D4, D6 and D7 of the Waverley Borough Council Local Plan 2002. These policies together require development to protect or enhance the appearance of the street scene, to protect significant trees that contribute to public amenity and and to not permit development which would result in the loss of important trees.

Other considerations

33. The appeal site is in an accessible location, within walking distance of Witley Railway Station. Local residents would therefore be able to access services and facilities without having to rely on travel by car. This is a modest benefit of the scheme that weighs in its favour.
34. The Council states that it has a 4.99 year supply of housing land which would fall marginally below the required five year housing land supply. The appeal scheme, in delivering one additional house, would make a very small contribution to the supply of housing. I give this limited weight.

The Green Belt Balance

35. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause moderate harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 144 of the Framework.
36. In addition to my finding that the proposed development would be inappropriate development, I have identified harm to the character and appearance of the area and potential harm to ecology. These factors weigh heavily against the development. I have however found that the scheme would not adversely affect the roadside street trees.
37. The scheme would make a minor contribution to housing supply in a location with good access to public transport. These are modest benefits of the scheme which would have limited weight and would not outweigh the significant harm to the Green Belt I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
38. As such the proposed development would be contrary to the Framework and Policy RE2 of the LPP1 which set out that Green Belt should be protected against inappropriate development.

Conclusion

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

Rachael Pipkin

INSPECTOR