



Appeal Decision

Site visit made on 20 March 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 May 2023

Appeal Ref: APP/D3640/W/22/3299190

Land to the rear of Oakwood, Chertsey Road, Windlesham GU20 6HY

- 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 S Varkey of SSV Investments Ltd. against the decision of Surrey Heath Borough Council.
 - The application Ref 19/0596/FFU, dated 23 January 2020, was refused by notice dated 25 November 2021.
 - The development proposed is the 'use of land for sitting of 2 tents for camping (for use by occupants of Oakwood) associated area of decking with pedestrian access from neighbouring Oakwood'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal 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 development on the character and appearance of the area, including with regard to trees;
 - the effect of the development on biodiversity; and,
 - if the proposal is found to be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether the development is inappropriate in the Green Belt

3. The appeal site is within a countryside location. It comprises an existing access track through the Oakwood estate gardens, as well as an area of adjacent woodland within which the development proposals would be undertaken. The buildings and estate gardens at Oakwood, and a large area of the adjacent woodland is under the control of the appellant.
4. The appeal site is within the Green Belt, the broad extent of which is defined in Policy CP1 of the of Surrey Heath Borough Council Core Strategy and Development Management Policies 2011-2028 dated 2012 (the Core Strategy). The policy indicates that the current extent of the Green Belt will be maintained.

5. Paragraph 147 of the Framework guides that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.
6. Framework paragraph 149 says that the construction of new buildings in the Green Belt should be regarded as inappropriate unless the development meets one of a number of stated exceptions. One such exception, at paragraph 149 (b), is for the provision of appropriate facilities for outdoor recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
7. Whether or not the existing use of the appeal site is recreational, in the context of the Green Belt and this appeal both parties agree that paragraph 149 (b) of the Framework is relevant to the development. The effect of the development on the openness and purposes of the Green Belt will therefore determine whether the proposal is inappropriate or not.
8. Openness can be considered both spatially and visually. From the evidence before me and my own observations on site, I accept that due to the presence of surrounding woodland the appeal site is not readily visible from adjoining woodland and countryside beyond the appellant's control. However, although appellant has indicated that the use of the site would be low key by the existing residents of the property, the proposal would introduce development including tent structures, decking and an access road within an area where currently there is no development. In terms of the spatial aspect of openness, the development proposals would therefore reduce the openness of the Green Belt.
9. One of the 5 purposes of the Green Belt, as identified within paragraph 138 (c) of the Framework, is to assist in safeguarding the countryside from encroachment. No new residential units would be created, however, given the nature and extent of the development proposals to be undertaken in a countryside location, the resultant development would encroach into the countryside. As such, the development would conflict with one of the purposes of Green Belt.
10. Overall, I conclude that the development reduces openness and would conflict with one of the purposes of Green Belt. Therefore, the proposal is inappropriate development in the Green Belt and conflicts with the Framework. Substantial weight is accorded to the harm which would be caused to the Green Belt. Accordingly, the proposed development should not be approved except where very special circumstances exist.

Character and appearance

11. The appeal site is mainly within an area of mature and well established mixed deciduous woodland. Due to the presence of the surrounding woodland, much of the site has a secluded quality and a pleasant tranquillity. This, and the lack of built form within the parts of the appeal site upon which the development proposals would be undertaken, positively inform the rural and wooded character and appearance of the area.
12. The proposed development would occupy only a small proportion of the wider woodland, and except for the access road, it would utilise materials which would blend well with the woodland setting. I accept that the proposals would

afford future users a quiet and peaceful retreat from day-to-day life, and that it would not be readily visible from public vantages within the woodland and countryside beyond the appellant's control. Notwithstanding these considerations, the elevation of the decking above the natural ground level, the introduction of a bound access road, and the construction of the tent structures, would all have a harmful urbanising effect on the rural, natural and undeveloped wooded environment.

13. Trees of moderate quality and value would be felled during the construction phase. Furthermore, and notwithstanding the proposed implementation of tree protection measures, the development would also be likely to cause damage to retained trees within and adjacent to the appeal site. Damage would be caused by ground compaction and root disturbance. Thereafter, the affected trees are likely to be subject of increased pressure for felling. The subsequent use of the site may also result in additional pressure for tree removal. Although the proposals would only affect a small proportion of the total woodland area, the felling of trees as a result of the development proposals, would degrade the character and appearance of the woodland.
14. For the reasons given above, the development proposals would have a harmful effect upon the character and appearance of the area. Consequently, the development would conflict with Policy DM9 of the Core Strategy where it requires development to respect and enhance the local or natural character of the area and to protect trees worthy of retention. It would also conflict with paragraph 174 of the Framework, which seeks to ensure that development contributes to and enhances the natural and local environment, and to ensure that decision makers recognise the intrinsic character and beauty of the countryside and of trees and woodland.

Biodiversity

15. The evidence indicates that the site forms part of a lowland mixed deciduous woodland, which is a habitat of principal importance. As such, and in coming to my decision, the duty contained within the Natural Environment and Rural Communities Act 2006 (NERC act) to have regard to the purpose of conserving biodiversity has been adhered to.
16. An objective of Policy CP14A of the Core Strategy, is to conserve and enhance biodiversity. The policy further indicates that development that results in harm to or loss of features of interest for biodiversity will not be permitted.
17. The proposal would result in the felling of mature trees and the disturbance; clearance; and compaction of large areas of the undeveloped woodland floor. Further the site's use would result in a degree of light pollution; noise; and general disturbance.
18. Although not limited to the appeal site or development proposals subject of this appeal, a preliminary ecological appraisal dated April 2019 and a Great Crested Newt Survey dated May 2019 form part of the submitted evidence. Records of various protected species were found to be present within 1km of the land under the control of the appellant. Furthermore, the wider woodland area which includes the appeal site, was found to contain mature trees and deep leaf litter, which provide suitable habitats for protected species.

19. With respect of protected species, surveys are expected to be up to date and to contain sufficient evidence to enable full consideration of the effect of a development proposal on protected species and their habitats.
20. The previously referenced surveys are over 3 years old, and they are deemed to be out of date. Even if they were not, they contain insufficient information to establish the range of protected species that may be using the site, and to assess any likely effects of the development proposals on protected species. Furthermore, the absence of such information, means that it is not possible to confirm the need for or details of appropriate avoidance, mitigation, or compensation measures (as appropriate).
21. Moreover, although it has been suggested that the implementation of a woodland management plan would result in a net biodiversity gain, no such management plan or unilateral undertaking to provide such a plan has been submitted. In any event, prior to establishing what, if any, mitigation, or compensation may be required, it is necessary to consider whether harm can be avoided. In this case I am unable to conclude that the avoidance of harm has been first considered. Furthermore, and even if a management plan had been provided, in the absence of adequate detail regarding the presence of or effect on protected species, I am unable to conclude that the implementation of such a plan would result in a net biodiversity gain.
22. In the absence of sufficient evidence to the contrary, I conclude that the proposals would cause harm to biodiversity in conflict with Policy CP14A of the Core Strategy. It would also conflict with paragraph 174 of the Framework where it requires development to protect and enhance sites of biodiversity value. In failing to adequately mitigate, or as a last resort, compensate for significant harm to biodiversity, the development proposals would also conflict with paragraph 180 of the Framework.

Other considerations

23. The appellant has indicated a willingness to commit to maintaining and enhancing the ecological value of the wider woodland under their control in the future, via a Woodland Habitat Management Plan. However, in the absence of such a management plan being provided, or cogent evidence quantifying the extent of the benefits to ecology and biodiversity that would result from its implementation, I am unable to conclude that there would be an improvement to the environmental quality of the site or the Green Belt. Therefore, the weight that can be attributed to these potential benefits is minimal.
24. The development proposals would facilitate outdoor recreation within the Green Belt. However, given that the use of the development would be limited to occupiers of Oakwood, only limited weight can be attributed to such a benefit.

Other matters

25. The site is within the zone of influence of the Thames Basin Heaths Special Protection Area. However, given that this appeal is being dismissed on grounds related to Green Belt, character and appearance, and biodiversity, an Appropriate Assessment under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 is not required.

Conclusion

26. The proposal would harm openness and conflict with one of the purposes of including land within the Green Belt. It would therefore be inappropriate development in the Green Belt. It would also be harmful to the character and appearance of the area; to trees; and to biodiversity, to which I give substantial weight. The other considerations in this case do not clearly outweigh the harm by reason of inappropriateness and any other harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
27. Overall, and for the reasons given above, the proposal conflicts with the development plan when taken as a whole. There are no material considerations, either individually or in combination that outweigh the identified harm and associated development plan conflict. Therefore, I conclude that the appeal should be dismissed.

V Simpson

INSPECTOR