



# Appeal Decision

Site visit made on 30 August 2023

**by G Sylvester BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 October 2023**

**Appeal Ref: APP/M3645/W/21/3282116**

**The Depot, Redehall Road, Smallfield RH6 9QL**

- 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 Portgreen Properties against the decision of Tandridge District Council.
- The application Ref TA/2020/2297, dated 21 December 2020, was refused by notice dated 2 March 2021.
- The development proposed is the erection of 4no. affordable bungalows and 2no. general needs bungalows with associated access, parking, landscaping and other associated works.

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The Government published a revised National Planning Policy Framework (the Framework) in September 2023. All references to the Framework in this decision relate to the revised document.
3. Given the period of time that has elapsed since the appeal was lodged, I have accepted the submission of evidence from the appellant in the form of appeal decisions<sup>1</sup> with respect to the Council's 5-year housing land supply, and a letter dated 23 June 2023, from the Examining Inspector to Tandridge District Council in respect of its emerging Local Plan. The Council had no substantive comments to make on these submissions and I am satisfied that no prejudice would be caused to any party by me accepting them now.
4. At the same time, the appellant submitted drawings of alternative development schemes at the site, including a drawing ref. RR/660/SP100 Rev B, which is titled as "*planning issue approved application to the rera (sic) of the site*". I have no information pertaining to the status of these drawings or their relevance to this appeal and therefore I have not accepted them. I have determined the appeal based on the drawings that were considered by the Council.

## Main Issues

5. The main issues are:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.

<sup>1</sup> APP/M3645/W/22/3309334 and APP/M3645/W/22/3302129

- The effect of the proposal on the character and appearance of the area.
- If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify it.

## Reasons

### *Whether inappropriate development*

6. Paragraph 137 of the Framework states that the Government attaches great importance to the Green Belt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 149 of the Framework, states that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions.
7. The objectives of Policies DP10 and DP13 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (Adopted July 2014) (the LP) are broadly consistent with the Framework's Green Belt policies insofar as relevant to the appeal proposal. However, the exceptions listed in Policy DP13 relate to an earlier version of the National Planning Policy Framework and are not in full alignment with those in the current Framework. As such, I attribute greater weight to the exceptions listed within the Framework.
8. The exception in Paragraph 149.g) of the Framework is for the partial or complete redevelopment of previously developed land, which (first limb) would not have a greater impact on the openness of the Green Belt than the existing development; or (second limb) would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
9. The evidence before me, which includes previous appeal decisions<sup>234</sup> on land including the appeal site, indicates that it was previously part of a commercial premises occupied by 2 large commercial buildings close to the road, along with 2 smaller buildings further to the rear, and areas of hardstanding. These buildings have been removed and the front part of the former commercial site is being developed for housing. The main parties agree that the appeal site falls within the definition of previously developed land as set out in the Framework's glossary. Based on the evidence before me I have no reason to disagree.
10. The appeal proposal would not comply with the exception in the first limb of Paragraph 149.g) of the Framework. On the basis of the evidence before me, including the previous appeal decisions on the appeal land, I see no reason to disagree. Therefore, my attention turns to the second limb of Paragraph 149.g) of the Framework, in which I must assess the appeal proposal's impact on the openness of the Green Belt and whether it would contribute to meeting an identified affordable housing need within the area of the local planning authority.

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<sup>2</sup> APP/M3645/W/19/3242056

<sup>3</sup> APP/M3645/W/19/3230341

<sup>4</sup> APP/M3645/W/15/3028050

11. Paragraph 137 of the Framework states that the essential characteristics of Green Belts are their openness and their permanence. Openness can be perceived spatially and visually.
12. At the time of my visit, there were mounds of earth on the appeal site which appeared to relate to the construction activities on the adjacent housing development. Except for those mounds, the appeal site appeared to have been largely cleared to bare earth.
13. In spatial terms, the proposed dwellings and the associated access road and parking areas would occupy land that is currently undeveloped, and, the evidence suggests, would have remained so following the completion of the adjacent housing development. As such, the scale of the proposed development would increase the amount of built form on the appeal site and would represent a more intensive use of it.
14. The proposed dwellings would be aligned in a closely spaced row that would back onto the rear boundary of the site. In this position and layout, the scale, massing and spread of the built form of the proposed dwellings would visually encroach into the countryside, thus conflicting with one of the five purposes of the Green Belt, as set out in Paragraph 138.c) of the Framework, to safeguard the countryside from encroachment, and thus causing harm.
15. Although there are trees and hedges around the boundaries of the site to the north, south and west, there are gaps in the vegetation coverage through which the built form of the development would be visible, limiting its effectiveness in screening the development from view. Whilst these gaps could be infilled with new planting it is likely that the development would nonetheless be visible from surrounding parts of the countryside, particularly during the months when the vegetation is not in leaf. Furthermore, the built form of the development would be partly visible from Redehall Road in views along the access road serving the dwellings.
16. The appellant has drawn my attention to the Green Belt Assessments and housing allocation HSG01 in the emerging Tandridge Local Plan 2033, which has a capacity to deliver 160 dwellings. It is suggested that this development would change the surrounding context of the Green Belt in the locality of the appeal site, such that the impact on the openness of the Green Belt would be minimal. However, in view of the stage of preparation of the emerging Local Plan, as set out in the Examining Inspector's letter to the Council, I give limited weight to the effect that this emerging allocation may have on the area, which in any case is located on the opposite side of Redehall Road to the appeal site and largely behind existing development.
17. Consequently, the appeal proposal would reduce the openness of the appeal site in both spatial and visual terms, causing harm to the openness of the Green Belt and to its purpose in safeguarding the countryside from encroachment.
18. In terms of housing need, the appellant has referred me to the Examining Inspector's letter to the Council in respect of its emerging Local Plan, which states that there is evidence of considerable need for both market and affordable housing in Tandridge, which is not being addressed. I am also

referred to an appeal decision for 100 homes in Warlingham<sup>5</sup> (the Warlingham appeal), dated 11 April 2023, in which the evidence in that appeal demonstrated an ongoing acute need for local affordable housing provision in the Council's area.

19. Four of the 6 proposed dwellings are stated as complying with the affordable housing definition in the Framework's glossary, comprising of 2 dwellings for low cost home ownership and 2 dwellings for affordable rent. The Council is satisfied that this proportion and type of affordable housing would contribute to meeting an identified need in the Council's area, particularly for 3 bed homes for affordable rent, which the Council describes as acute. Based on the evidence before me, I find no reasons to disagree.
20. The appellant has expressed a willingness to secure the affordable housing provision<sup>6</sup> through a Section 106 Agreement (s106) planning obligation. However, a completed s106 is not before me. The appellant refers to a lack of cooperation on the part of the Council in agreeing a s106 Unilateral Undertaking (UU), whilst also suggesting there is no requirement for a s106. The Council, in response, has invited the appellant to advise if its comments on a UU are required. Nonetheless, it is the responsibility of the parties involved in planning appeals to present their case in full and I have not seen or read anything in the main parties' evidence that confirm how the affordable housing units would be secured if planning permission was to be granted.
21. Planning Practice Guidance (PPG) advises<sup>7</sup> that to provide sufficient certainty, planning obligations should be finalised prior to planning permission being granted and that a condition requiring a planning obligation to be entered into is appropriate only in exceptional circumstances. There is no substantive evidence before me to demonstrate any exceptional circumstances that would, in terms of the PPG referred to above, justify imposing a planning condition requiring a planning obligation to be entered into.
22. For these reasons, in the absence of a suitable mechanism to secure affordable housing provision, I cannot be satisfied that it would be delivered through the appeal proposal. It follows that I must find that the appeal proposal would not contribute to meeting an identified affordable housing need within the Council's area, as required by the second limb of the exception in Paragraph 149.g) of the Framework.
23. In taking account of all the above considerations, I conclude that the appeal development would not fall within any of the exceptions to new buildings in the Green Belt that are listed in Paragraph 149 of the Framework, and therefore constitutes inappropriate development in the Green Belt.
24. Paragraphs 147 and 148 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances and that substantial weight should be given to any harm to the Green Belt. I therefore give substantial weight to the proposal's harm to the Green Belt by reason of inappropriateness, and its effect on the openness and purpose of the Green Belt.

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<sup>5</sup> APP/M3645/W/22/3309334

<sup>6</sup> Para 7.3 of the appellant's appeal statement

<sup>7</sup> Paragraph: 010 Reference ID: 21a-010-20190723

### *Character and appearance*

25. The appeal site is situated outside of the defined settlement of Smallfield. The prevailing character and appearance of the area is defined by a ribbon form of development consisting predominantly of buildings set relatively close to the road. The buildings are separated by gaps of varying widths that allow views towards the countryside beyond, contributing to a verdant and generally rural character and appearance of the area.
26. The appeal proposal would read as an extension to the adjacent housing development in a direction further back from the road and onto open land within the countryside. In this position, the scale, massing and tightly spaced row of proposed dwellings would be out of character with the established pattern of development in the area and visually intrusive.
27. This intrusion would be visible from the surrounding countryside and through the gaps in the trees and planting along the site boundaries, particularly when the trees are not in leaf. Whilst additional planting could be secured around the boundaries of the site, the built form of the proposed dwellings would nonetheless be noticeable in the surroundings. Furthermore, the intrusive nature of the appeal proposal would also be experienced in views from Redehall Road and along the access road where the front elevations of at least two of the units would face the road and partially close out the view.
28. I acknowledge that the dwellings at the redeveloped Gonville Works to the south and also the approved residential development that was under construction on the adjacent land are examples of development in depth in the area. Those developments extend relatively far back from the road and are thus not consistent with the prevailing character and appearance of the area. However, on the evidence before me, both of those developments replaced some large commercial buildings, bringing benefits to the openness of the Green Belt and to the character and appearance of the area, which is not the case for the current appeal proposal before me.
29. I conclude that the proposed development would be harmful to the character and appearance of the area. The proposal would therefore be contrary to Policies CSP18 and CSP21 of the Tandridge District Core Strategy (Adopted October 2008) (the CS), and Policy DP7 of the LP, which, amongst other objectives, seek to ensure that development respects the character, setting and local context of a site, and reinforces local distinctiveness and landscape character.

### *Other considerations*

30. There is no dispute that the Council cannot currently demonstrate a 5-year supply of housing land in its area. The Inspector in the Warlingham appeal noted that the Council's latest Annual Monitoring Report (AMR) identified a housing land supply of 1.57 years. This is lower than the supply of housing land quoted by the Council's AMR of 1.71 years at the date of its statement in October 2021, indicating a falling supply.
31. The housing shortfall in the Council's area is therefore substantial and in this context the contribution of 6 dwellings in a location accessible to local services and facilities, including a primary school, would make a small but valuable contribution to the housing supply, to which I give significant weight.

32. In the absence of an appropriate planning obligation capable of securing the proposed affordable housing provision, I have no certainty that the appeal proposal would deliver this important public benefit. Therefore, the appellant's willingness to provide affordable housing carries no more than limited weight in favour of the proposal.
33. The proposed dwellings would generate short-term employment opportunities and economic activity associated with the construction works, and long-term benefits through the new resident households supporting the businesses and services within the economy. Given the relatively small scale of the development, the economic benefits that would accrue from it would be modest and they weigh moderately in its favour.
34. The environmental benefits of biodiversity enhancement and landscaping would arise partly through the mitigation of the effects of the proposed development. Generating a proportion of the energy needs of the development through renewable energy sources would deliver a reduction in carbon emissions. However, given the scale of the development, these represent modest environmental benefits that weigh moderately in its favour.
35. The main parties agree that the appeal proposal would not harm the living conditions of the occupiers of nearby properties or the intended future occupiers of the proposed dwellings. The proposed development would achieve a sufficiently safe means of access for all users and there would be no unacceptable harm to highway safety. The appeal site could be adequately drained to avoid increasing flood risk. The protection of trees during construction and any contamination of the land could be satisfactorily addressed through planning conditions. However, even if I were to agree that there is an absence of harm in these respects, an absence of harm is neutral and does not weigh either in favour or against the development.

### **Other Matters**

36. My attention is drawn to planning permissions granted by the Council in the Green Belt for a car park at the Playing Field, Redehall Road, and for a development of 4 houses at Honey Pot Farm. However, full details of those planning permissions are not before me and as such as they are of limited relevance to my considerations in this appeal. In any case, I am not bound by the decisions of the Council.
37. I am also referred to cross-boundary appeals at Colney Heath<sup>8</sup> in which the Inspector attributed substantial weight to the supply of up to 100 homes, including 45% of the homes as affordable housing, noting the Councils' respective land supply positions of 2.4 and 2.58 years respectively, and extremely acute under delivery of affordable housing. However, the development proposed in the Colney Heath appeal, the Warlingham appeal referred to above, and the Lymm appeal<sup>9</sup> (64 dwellings), were for considerably larger developments that would deliver greater economic and social benefits than the appeal proposal before me, and the decision letters suggest that affordable housing was secured by planning obligations. Moreover, appeal decisions are fact and evidence specific, requiring each case to be determined on its own merits. I have determined the appeal proposal on its individual

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<sup>8</sup> APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926

<sup>9</sup> APP/M0655/W/18/3200416

merits and the appeal decisions submitted by the appellant have limited relevance to my considerations in this appeal.

### **Green Belt balance and Conclusion**

38. Paragraphs 147 and 148 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that substantial weight should be given to any harm to the Green Belt. For the reasons given above, I give substantial weight to the totality of the proposal's harm to the Green Belt.
39. The other considerations do not clearly outweigh the totality of harm to the Green Belt, by reason of inappropriateness, harm to openness and encroachment into the countryside. The harm I have identified to the character and appearance of the area adds further weight against the proposal. Therefore, the very special circumstances necessary to justify the development do not exist and the proposed development is contrary to Policies DP10 and DP13 of the LP, in so far as they seek to ensure that inappropriate development of new buildings in the Green Belt are permitted only where very special circumstances exist.
40. Paragraph 11 of the Framework states that where the development plan policies which are most important for determining the application are out-of-date, permission should be granted unless the application of policies in the Framework that protect areas of particular importance, such as the Green Belt, provide a clear reason for refusing the development proposed. The policies in the Framework that protect the Green Belt provide a clear reason for refusing the development proposed. As such, the proposal would not be the sustainable development for which the Framework indicates a presumption in favour.
41. The proposal would conflict with Policies DP7, DP10 and DP13 of the LP, and Policies CSP18 and CSP21 of the CS, and the Framework. This results in conflict with the development plan as a whole. There are no material considerations of sufficient weight, including the provisions of the Framework, to outweigh this finding. Therefore, the decision should be made in accordance with the development plan and the appeal should be dismissed.

*G Sylvester*

INSPECTOR