



Appeal Decision

Site visit made on 21 November 2023

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref: APP/L3625/W/23/3319268

The Orchard, Garden Walk, Hooley, Surrey CR5 3RE

- 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 Stanley Nazarko against the decision of Reigate & Banstead Borough Council.
 - The application Ref 22/02169/F, dated 30 September 2022, was refused by notice dated 10 March 2023.
 - The development proposed is demolition of outbuildings and the erection of a detached dwelling with accommodation within the roof space with formation of new vehicular access and parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 5 September 2023 the government published the revised National Planning Policy Framework (2023) (the Framework). The only substantive revisions relate to national policy for onshore wind development. In-light of the issues for consideration in the determination of this appeal, I have not sought the Council's or appellant's comments upon the changes.

Main Issues

3. The main issues are:
 - the effect of the proposed development upon highway safety; and,
 - whether or not the proposed development would be inappropriate development in the Green Belt.

Reasons

Highway Safety

4. The Council and Highway Authority (HA) expect a visibility splay of 2.4m x 43m based upon the guidance in the Manual for Streets 1 and 2, having regard to a safe stopping distance, adjusted for bonnet length, at 30mph. The plans suggest the access may only achieve a 2m x 33m splay in the direction of oncoming traffic within the appeal site and the highway. The line used to indicate this on the plan appears to cut through a small section of fencing and fence post with neighbouring land. Even were this not the case, the 2 x 33m

would be significantly below what is taken to be safe guidelines to provide a safe stopping distance and safe operation of the highway. Therefore, the proposal has the potential to significantly prejudice highway safety.

5. The Council and HA do not appear to specifically object to the reduced X distance of 2m, with the primary concern that of the reduced Y distance. I have no speed surveys demonstrating a reduced splay is appropriate in relation to measured vehicle speeds on this part of Church Lane. At my visit I noted a limited steady flow of vehicles driving at what appeared to be around the speed limit. Although it has some dips, the road is relatively straight, so it is not clear the existing conditions will limit or reduce vehicle speeds as suggested to me. While my visit can only represent a brief snapshot in time, the carriageway alignment, traffic flows and speeds, does not lead me to conclude a lesser splay is demonstrated to be adequate and safe.
6. It is not explained which properties on Church Lane do not have the expected splay, what splays they do or could provide within land under their control, or whether highway alignment or conditions might influence vehicle speed around those points. No cost estimates are provided to demonstrate an acceptable cost-effective solution cannot be provided, and I have no surveys to demonstrate what a safe visibility standard might be, and if and where this could be achieved. Therefore, these matters are attributed limited weight.
7. Even if the Council's suggested condition for a proposed access¹ were a pre-commencement condition, this has the potential to entail a significant and material change to the design of the access of the appeal scheme that is before me, was before the Council and upon which interested parties were consulted. There is no certainty a safe access would be achievable and is within the scope of this appeal scheme. It also has the potential to require land outside the appellant's control and the highway, for which there is no evidence provided there is any prospect of a sufficient interest in the land being achieved. Therefore, the condition does not meet the test of being reasonable. In consequence, I am not satisfied conditions could overcome the harm.
8. For the reasons set out above, it has not been demonstrated that the proposed development would not be significantly harmful to highway safety. It conflicts with the aims of Policy TAP1 of the Reigate and Banstead Local Plan Development Management Plan (2019) (the DMP). This expects amongst other things, that development can provide a safe access in a way that would not impede free traffic flow, compromise any transport modes, or increases the risk of accidents to road users. It would also conflict with the aims of paragraph 111 of the Framework which expects that development which would have an unacceptable impact upon highway safety should be refused.

Green Belt

9. Paragraph 147 of the Framework states that inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework identifies that the construction of new buildings should be regarded as inappropriate, subject to various exceptions in paragraphs 149 and 150.

¹ Condition 1 of the statement by the PDP Transport Development Planning Officer and condition 6 of the Council's Statement of Case.

10. Policy NHE5 of the DMP designates Green Belt. The policy text mainly addresses extensions, alterations, and replacement buildings. The explanatory text states national policy defines exceptions and local policy provides clarity over interpretation and local assessment. Policy CS3 of the Reigate and Banstead Local Plan Core Strategy (2014) (the CS) states that permission will not be granted for inappropriate development unless very special circumstances clearly outweigh the harm to the Green Belt. The supporting text refers to national policy in referencing inappropriate development. On this basis, the development plan is broadly consistent with the Framework.
11. The appellant advocates the proposal meets the exception at paragraph 149e) of the Framework, for limited infilling in villages. The appellant refers me to various planning decisions² and caselaw³ in respect of 149e), the findings of which I note. However, there are some differences between those cases and the appeal proposal. Whether or not a proposal meets 149e) is a judgement based upon the specific situation of each site and proposal being considered. Therefore, the decisions are attributed limited weight, and my findings on this proposal are in relation to this specific proposal at this appeal site.
12. The proposed development includes a single dwelling, access, hardstandings and boundary treatments. Its plot size, height, depth, footprint, bulk, mass and scale would be comparable to those properties within its immediate vicinity and less than some. Therefore, I regard it as being limited.
13. Though I note the references to the CS and DMP glossary definitions of infilling in pre-application advice⁴, infilling is referred to Policy DES2 in respect of character and appearance, but it is not referred to in the main policy text of the Green Belt policies provided to me. It is not clear whether the fence built along the boundary of Church Lane constitutes 'built-up' for the purposes of their application, and the most recent definition in the DMP acknowledges that infilling is 'often' but might not always be within an otherwise built-up frontage. Therefore, such a situation may not always be necessary for a proposal to constitute infilling. The Council's delegated report and appeal statement do not refer to the definitions in explaining its substantive objection. Therefore, while they are a material consideration, I do not regard them as determinative as to whether a proposal meets the exception at 149e).
14. The appeal site is surrounded by and in close proximity to built development on three of its sides. There are dwellings and the highway opposite its proposed frontage onto Church Lane, to its rear are the host property, to the side of which is The Pines. To its side are Copperfields, and Gate House further west. Having regard to the surrounding pattern, scale and proximity of development, the appeal proposal would in fill a space in the surrounding built form, such that as a matter of planning judgement, I am satisfied it constitutes infilling for the purposes of applying Green Belt policy.
15. A settlement boundary in the development plan may not be determinative as to whether a site is within a village. Hooley comprises a large number of dwellings around a number of thoroughfares with a good degree of coherency and continuity. This includes residential areas, facilities such as a green or

² Refs. 21/02260/F; 21/02014/F; 21/01908/F; 21/00597/F; 19/01956/S73; 19/00487/F; 18/00713/OUT; 17/00919/F; 07/02036/F; 78P/0030; 78P/1061; APP/B3438/W/18/3214689; APP/C3430/W/18/3207145; APP/K2230/W/21/3273757.

³ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195.

⁴ Pre-application advice letter of 8 June 2022.

- recreation ground, and services including a small collection of shops, petrol stations and bus stops nearby on Brighton Road. Therefore, it is a village.
16. The site is over washed by the Green Belt and the Surrey Hills AONB. Though Church Lane is the development plan boundary, and it marks some limited change in character from dwellings to the north of Church Lane, a village is rarely entirely uniform in character. When walking from the lane into Broad Walk, the scale and pattern of development means it has a strong sense of being surrounded by dwellings and being within the village. The characteristics of Church Lane around the access to Broad Walk and the appeal site, the junctions, development pattern and layout, the proximity of surrounding dwellings, means the site itself is physically and functionally part of the village. Therefore, I conclude the appeal site is within the village.
17. Though it is suggested making a positive finding might set an undesirable precedent, any future proposal must be considered on its own merits. It is not demonstrated precedent is a necessary consideration when deciding whether a proposal meets paragraph 149e). Impact on openness is implicitly taken into account in setting out the exceptions in the Framework unless there is a specific requirement to consider the actual effect on openness. If a future development were assessed as meeting a Green Belt exception, it would not harmfully conflict with Green Belt policy.
18. For the reasons set out above, the proposed development meets the exception to inappropriate development of being limited infilling in a village in paragraph 145e) of the Framework. Therefore, it is not inappropriate development in the Green Belt. On this basis, there is no need to assess the effects upon openness, or, whether any other considerations amount to very special circumstances. As Policies CS3 of the CS and NHE5 of the DMP do not state they seek to limit or prevent limited infilling in a village, I do not find a conflict with them.
19. Though reference is made to Policy CS2 of the CS in the Council's first reason for refusal, as it does not include an explicit reference to Green Belt in the policy text, I have not reached a finding upon it in respect of this main issue.

Planning Balance

20. The proposal would result in a limited temporary economic benefit during construction, and once complete a small on-going benefit to the local economy, and the vitality of local services and facilities. The social benefits to housing supply of this single dwelling attract limited weight in favour of the scheme. The landscaping would constitute an overall minor benefit. There is no substantive evidence to demonstrate any resulting biodiversity gains, would be anything other than a limited benefit in the longer term. It might be possible to secure a betterment in respect of drainage and flood risk, although it has not been demonstrated this could secure anything other than a limited benefit. This attracts limited weight in favour of the scheme.
21. The evidence suggests the integration of renewable energy and resource efficient technologies would seek to off-set the effects of the dwelling rather than provide an overall net benefit, so is a neutral matter. Were I to agree the proposal is compliant with policies in respect of matters such as the location of the development, flood risk, access to services and facilities, the AONB, the Area of Great Landscape Value, the effect upon the character and appearance

of the area, the living conditions of future and neighbouring occupiers, and arboricultural guidance, these would be neutral matters in the balance. Meeting an exception to inappropriate development is also a neutral matter.

22. Overall, the policy compliance and benefits of the development attract limited weight in favour of the scheme. However, it has not been demonstrated the proposed development would not lead to significant and unacceptable impacts upon highway safety. This matter is such that it attracts significant weight against the scheme. Therefore, the harm and policy conflicts from the proposed development significantly outweighs the policy compliance and benefits of the development.

Conclusion

23. The proposed development would be contrary to the development plan read as a whole, and the Framework. There are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR