



Appeal Decision

Site visit made on 5 February 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2024

Appeal Ref: APP/C3620/W/23/3322806

Tamworth Farm, Deanoak Lane, Leigh, Surrey RH2 8PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Hannah Beasley against the decision of Mole Valley District Council.
 - The application Ref is MO/2023/0036/PLA.
 - The development proposed was described as 'creation of 3 No. dwellings following demolition of existing barns; revised application further to permission granted under MO/2022/0439 for conversion of existing buildings into 3 dwellings following demolition of lean-to extensions'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework was revised on 19 December 2023 (the Framework). There are no relevant material changes in this case and I have referred to equivalent re-numbered paragraphs where necessary. At my request, the Council provided what it considers to be its current housing land supply position. This remains as set out in its officer report.
3. During the application a 1st amended layout plan showed the route of a public footpath and a bridleway in relation to the site¹. A 2nd amended layout plan moved part of the proposal further from the footpath². The Council agreed the 2nd plan addressed its objection in this regard but made its decision on the original layout plan³, leading to reason for refusal (RfR) 3.
4. The appellant seeks to rely on the 2nd plan but submitted the 1st plan as part of the appeal. The 2nd plan is reproduced in the appellant's appeal statement so it has been available for public comment⁴ and it does not alter the description or nature of the proposal. As a result, no prejudice has been caused to any person. In the appeal the Council confirms the 2nd plan overcomes RfR3 and that this objection is withdrawn. I have no reason to find otherwise and have, therefore, determined the appeal on this same basis.
5. During the appeal the appellant informed me that a revised application has been submitted to the Council and submitted some documents relevant to that application. I have not been informed about any decision and it is not, anyway,

¹ On the plan, drawing number 2209TA_RO_001 Revision R.1

² Referred to by the appellant's architect as drawing number 2209TA_001.2

³ Referred to by the Council as drawing number 2209TA_RO_001, on the plan 2209TA_RO_001 Revision R.0

⁴ On the plan, drawing number 2209TA_RO_001 Revision R.2

the proposal before me so I have not had regard to this information. The site has been described as located in 'Dean Oak Lane' but it is 'Deanoak Lane'.

Background and Main Issues

6. The site is in countryside in the Green Belt. It includes three barns, one partly collapsed and overgrown. The Council has granted planning permission to convert the two standing barns – one to a detached dwelling and the other as two semi-detached dwellings (the extant PP)⁵. In this appeal, all three barns would be demolished and the site redeveloped with 3 detached dwellings. The main issues are:

- whether the proposal is inappropriate development in the Green Belt, having regard to local and national planning policy;
- if it is inappropriate development, its effect on the openness of the Green Belt;
- its effect on the character and appearance of the area;
- its effect on a protected species, namely great crested newts; and
- whether any harm by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations to amount to very special circumstances required to justify the proposal.

Reasons

Planning policy

7. Policy CS1(3) of the Mole Valley Core Strategy 2009 (the CS) sets out the Council's approach to development in the Green Belt by reference to 'PPG2 Green Belts'. This previous national planning policy guidance has been replaced by the Framework. Even if the District is 'highly constrained' by the Green Belt, as the appellant suggests, the development plan therefore remains consistent with national Green Belt planning policy.
8. The Framework seeks to protect Green Belt land and regards the construction of new buildings as inappropriate development in the Green Belt, subject to the exceptions set out in paragraph 154. Certain other forms of development listed in paragraph 155 are also not inappropriate in the Green Belt. The Framework sets out that the essential characteristics of Green Belts are their openness and permanence and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Whether inappropriate development

9. The appellant has referred me to the exception in paragraph 154 g). It relates to limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use. However, the application form states that the current use of the site is 'agricultural'. It is occupied by agricultural buildings (the barns) and associated concrete aprons. There is no evidence the extant PP has been commenced or of any other existing or last use of the site. Notwithstanding the appellant's emphasis given

⁵ MO/2022/0439

to the first proviso of paragraph 154 g) with respect to openness, the site is, therefore, by definition not previously developed land to begin with⁶. This also means that the alleged paragraph 154 g) development precedents that I have been referred to are not comparable to the current appeal.

10. Accordingly, I find that the proposal does not comply with CS Policy CS1(3) and fails to meet the Green Belt exception at Framework paragraph 154 g). No other paragraph 154 exception and no paragraph 155 development has been suggested. Consequently, it would be inappropriate development in the Green Belt.

Effect on openness

11. The main barn has a large footprint and ground floor area with a raised eaves level to facilitate agricultural use. Despite considerable internal volume it has a very shallow pitched main roof and almost flat lean-to monopitch roof at the back. The front is open bays and either end elevation has large openings. This low, and to a large extent, open structure nestles into a corner next to hedgerow and trees on two sides. The other barns are in essence similar in design to the main barn and sit further out, more into the open farmyard, but are closely spaced to each other and to the main barn. Though different in footprint shape each of these two barns are significantly smaller in footprint area, so in overall size than the main barn.
12. One dwelling would be notably narrower and shorter than the main barn and two would be similar in one or other of these dimensions to the two other barns. This would result in an appreciable reduction in ground floor area on the site (from 936.47 sqm to 518.61 sqm)⁷ and two dwellings would be sited within the footprint of the barns. Some concrete apron would be replaced by gardens.
13. However, the third dwelling would only marginally overlap one corner of the partly collapsed barn, so be mainly where no permanent built form presently exists. This increased spread of development on the site would also be in closer proximity to a boundary and result in two dwellings with wider spacing to the third than currently exists between the barns.
14. While eaves levels in the dwellings would be broadly in the same range as in the barns (3.5m to 4m), the main ridge heights would be significantly taller, 8m to 9.25m compared to 5.25m to 5.5m. This would also give a top (roof) heavy form to the dwellings and despite large areas of fenestration the fully enclosed elevations would have greater substance. In addition, some gravel hardstanding would be on parts of the site not presently covered by concrete apron or where existing hardstanding is largely overgrown and become blended into the landscape.
15. No volumetric calculations are in evidence, or about change on the site in overall floor area taking into account the upper floors of the dwellings. An interested party has suggested floor area figures but the origin of these is not clear and no plans have been provided to show how they have been derived or calculated so they do not assist me. Nevertheless, the appeal proposal would also result in a significant increase in size by building footprint (518.61 sqm), so ground floor area, compared to the extant PP (488.99 sqm) and increased size by number of bedrooms (each from 3 to 4, though two are shown in the

⁶ Framework Annex 2: Glossary

⁷ Figures are approximate

plans with a study so have potential for a 5th bedroom). While in the extant PP there would be more grassed garden area, in the current appeal this would be offset by significantly greater gravelled hardstandings within each plot.

16. Even if the proposed ridge heights were comparable to others in the area, as the appellant contends, the increased and elevated height, scale and massing of the dwellings would protrude upwards above the barns where there is currently no such built form. In my view, this would not be offset by the reduction of floor area at ground level, including because of the wider distribution of the dwellings at two-storey height further across the site above or beyond the existing barns and closer to site boundaries.
17. Furthermore, the change of use to gardens means most of the site would likely be maintained as lawn and regularly used for residential activity such as play, relaxation or entertaining with associated domestic paraphernalia. This residential use and activity would be manifestly different to agricultural use of the site as part of the farmyard. While the proposal would not extend beyond the site or into the wider countryside, it would nonetheless not safeguard this part of the countryside (the site) from these incursions within it.
18. The appellant claims at least one barn in the extant PP is tall enough for two floors so the current proposal is in that sense 'not materially different in height'. The extant PP elevation plans are not before me but there are no staircases in the ground floor plans. Even if some first floor use was possible it would still be within the envelope of the lower converted barn, whereas first floor accommodation in the appeal proposal would be in significantly taller new buildings.
19. As I understand it 'visual improvement' at Coomers Farm was in the context of replacing buildings either in use as stables, storage or workshop or some with permission for use as dwellings, so either way previously developed land⁸. The neutral change in footprint in that case, and that there would be a reduction in this appeal, is therefore no more than a matter of numeric comparison given the material differences in each proposal.
20. Additionally, while the tallest dwelling at Coomers Farm was sited further in one direction and beyond the footprint of existing buildings, the development as a whole was across a large site. The Council agreed other parts of it would be 'opened up' so 'retain an open appearance across that site as a whole'. In this appeal the site is significantly smaller, a different shape and the dwellings would be more closely arranged with each other and to site boundaries to give a materially tighter impression of built form, so greater proportionate increase in size in relation to this site area.
21. Having regard to all the above, the site would no longer be open in any equivalent or comparative sense to its existing condition, nor would it remain unchanged. The dwellings, gravel hardstandings and domestic use and activity would have a significant permanent innate spatial presence, including a clear visual presence in views from the public footpath and the bridleway. Consequently, I find that the proposal would have a greater impact on the openness of the Green Belt than the existing development. Albeit a small loss overall this would reduce the openness of the Green Belt, not maintain its permanence and be at odds with a purpose of the Green Belt to safeguard

⁸ MO/2021/1543

countryside from encroachment. As such the proposal is contrary to CS Policy CS1(3) and these objectives of the Framework.

Character and appearance of the area

22. Most dwellings along and next to this stretch of Deanoak Lane, or nearby, are older traditional two-storey houses. The dwelling conversion and extension at Little Stumblehole Barn has some similar design themes and materials as the dwellings in this appeal, including high quality mainly timber clad elevations and timber framed fenestration with some first floor living space. However, these existing dwellings are mostly set in large gardens so are not close to all boundaries of each plot. They are also mainly sporadic or scattered in siting, usually alone or with ancillary outbuildings or part of a complex of agricultural or equestrian buildings.
23. In contrast, the proposal would result in three large dwellings in a tight cluster on the site, close to each other and to boundaries on all sides of generally proportionately smaller garden plots. There would be no functional association to any building next to the site or nearby. While they would give the impression of converted barns and individually be similar in height to dwellings nearby, taken together this concentration of scale, massing and overall form of dwellings would be at odds with the prevailing pattern and arrangement of residential development along the lane or nearby.
24. This incongruous consolidation of residential built form and use would be observed as such in the landscape in longer and short distance public views from the bridleway as it passes the site and from the south, over boundary planting, and especially jar in open views from the public footpath as it passes alongside the site.
25. Although the barns are modern, steel framed portal buildings with sheet metal cladding and fibre cement or asbestos sheet roofs, they are typical of this sort of agricultural building, in this case arranged within a farmyard. Apart from the partly collapsed barn there is no objective evidence the structure and fabric of the other two is not in good order. They are intrinsically functional and utilitarian, but not unusual or unexpected in the countryside so not out of keeping or at odds with their rural context. There is therefore no apparent basis for the claimed betterment of the proposed dwellings over the barns in terms of 'visual improvement' as opposed to simply a change in circumstances on the site.
26. The extant PP would also result in three dwellings on the site with gardens but with fewer buildings, in a smaller building envelope (especially height) and overall have a more open setting around them and to site boundaries so not appear to overdevelop the site. As such these dwellings by conversion would appear less dominant on the site and have more in common with innate characteristics or features of the barns, so maintain a more analogous status quo in this rural area than the current appeal proposal.
27. I therefore find that the proposal would not make a positive contribution to the character or appearance of the area. Consequently, it is contrary to Mole Valley Local Plan 2000 (the LP) Policies ENV4, ENV22, ENV23 and ENV24 and to CS Policies CS13 and CS14. These policies include that development should be appropriate to the site in scale, form and appearance, respect and enhance (not detract from) the character and appearance of the locality and landscape

by visual impact and setting in terms of bulk and proportions in relation to boundaries of a site and with the surrounding built environment to ensure sufficient space around buildings to avoid a cramped appearance and overdevelopment.

Great crested newts (GCN)

28. GCN are a European Protected Species⁹. The appellant considers that a large pond within 50m of the site is not suitable habitat for GCN. However, there is no formal GCN habitat suitability index assessment or presence/absence survey for this pond. Nor have several other ponds within a 500m 'red impact' risk zone for GCN been assessed or surveyed, as is requested by Natural England standing advice. There is no dispute that records indicate local GCN presence, suitable GCN terrestrial and breeding habitat and that the site directly connects to such features.
29. The appellant suggests habitat within the site which would be impacted by 'development works' is at best 'not likely' to support GCN; whereas vegetation along the south and east boundaries 'could potentially' provide a corridor for migrating GCN, albeit 'not to be' or only 'not likely to be' impacted by such works. Additionally, there is no evidence the appellant has considered if vegetation removals – along the east boundary to make or enlarge gaps for two vehicular accesses and along the south boundary next to new gravel hardstanding – would interrupt the linear continuity of each potential GCN habitat corridor. Nor considered potential post development impacts due to the change of use of the site from part of a farmyard to domestic use and activity, including most of the south and east boundary vegetation incorporated into gardens or plots and some new gravel driveways and hardstandings next to it.
30. In my view, there is therefore a reasonable likelihood of GCN being affected by the proposal. In these circumstances the presence or absence of GCN, and the extent to which they could be affected by the proposed development, should be established before planning permission is granted otherwise this material consideration would not inform part of decision-making. The need to ensure ecological surveys are carried out should therefore only be left to planning conditions in exceptional circumstances. The survey should otherwise be completed and any necessary measures to protect GCN should be in place, through conditions and/or planning obligations, before permission is granted¹⁰.
31. No exceptional circumstances have been suggested but even if these existed, an up-to-date survey would still be required to ensure that avoidance, mitigation or compensation measures would be appropriate and effective. Nonetheless, the appellant promotes a 'precautionary approach' with a method for site clearance, including that if GCN are found development works must cease and a (mitigation) licence be sought from Natural England. It is suggested this would avoid 'any impacts on any... amphibian that may end up on the site' during such works. No other specific GCN avoidance, mitigation or compensation measures have been suggested.
32. However, the appellant has not submitted a suitable (NatureSpace) report or certificate to demonstrate that impacts of the proposal can be addressed

⁹ Conservation of Habitats and Species Regulations 2017 (as amended)

¹⁰ Paragraph 99, Circular 06/05 - Biodiversity and Geological Conservation and BS 42020:2013 Biodiversity – Code of practice for planning and development

through the Council's District Licence, has not provided further information about the status of the ponds to rule out impacts on GCN or to demonstrate how such impacts can be addressed through appropriate mitigation or compensation and has not established that there is no suitable habitat on the site (in which case a precautionary working statement in the form of Reasonable Avoidance Measures or Non-Licensed Method Statement may otherwise be acceptable). As such there is no certainty that a mitigation licence application would meet the relevant tests and be issued, including if necessary by Natural England.

33. Not only has this post decision approach not been justified in this case, but it also therefore still leaves a possibility of deliberate or reckless activity that leads to capture, killing, disturbance or injury of GCN; or might lead to the damage or destruction of GCN breeding or resting places or the obstruction of access to places used for resting or shelter.
34. The Council granted planning permission at Orchard Cottages subject to a condition requiring a precautionary working method statement for GCN¹¹. The 'Newt Officer' advised precautionary works 'should be prior to determination and/or secured by condition', whereas the officer report and condition applied by the Council inconsistently refer to 'prior to development'. This decision does not therefore assist me. A precautionary approach was taken by the Council in the extant PP, but for bats, and at Coomers Farm¹² for bats and nesting birds so neither is comparable to GCN.
35. Accordingly, I am not satisfied the appellant has demonstrated that there would be no harm by adverse impact on a protected species, namely GCN. In these circumstances the proposal does not comply with LP Policy ENV15 or CS Policy CS15. These policies include aims to protect and enhance biodiversity and that development should not materially harm a protected species or its habitat.

Other considerations

Housing provision

36. The proposal would make an efficient use of the site for housing but the extant PP would already deliver 3 dwellings in roughly the same position on it so there would be no net gain in units or benefit in this regard, except different in size or type. There is no objective evidence the market dwellings would be 'more affordable local housing', 'create a more balanced range of dwelling sizes' or enhance or maintain any rural community in any meaningful way, nor that the barns are not already an efficient use of the site. These alleged benefits therefore have little weight.

Travel mode

37. There is no objective evidence to substantiate a claimed reduction in vehicular traffic compared to the barns and site in agricultural use. The site is in a remote location outside of any settlement and accessed along narrow, un-lit rural lanes, including the bridleway, so are not conducive to walking or cycling. Future occupiers of the dwellings would therefore be mainly reliant on cars to

¹¹ MO/2023/0308

¹² MO/2021/1543

access facilities and services necessary to meet most living needs. This consideration therefore has little weight.

Fallback

38. The Council granted the extant PP on the basis two of the barns were capable of conversion to dwellings. This informed its decision in that case that it was not inappropriate development in the Green Belt. Suitability for conversion has been disputed by some interested parties in this appeal. There is, though, no objective evidence in this regard, such as from a suitably qualified competent person, so this is little more than anecdote or speculation.
39. Consequently, if this appeal is unsuccessful, I consider that there is a realistic prospect an owner would seek to secure the benefit of the extant PP, at least by implementation and including for reason of value, else this would be lost. Whether conversion could be completed in the terms set out in the extant PP would be a matter for the appellant (or future owner of the site) and the Council. However, and although similar in some respects, for the reasons explained earlier this fallback position is distinctly and materially different to the proposal in this appeal. It would not, therefore, result in the same harm identified in the main issues so this consideration has moderate weight.

Conditions

40. The appellant has not objected to the Council's suggested conditions. Nevertheless, none of these or others suggested by the appellant would overcome the adverse impacts of the proposal outlined in the main issues.

Green Belt Balance

41. The proposal is inappropriate development in the Green Belt and would harm the openness of the Green Belt, contrary to local and national policy to protect the Green Belt. The Framework sets out that I am required to give substantial weight to this harm to the Green Belt. In addition, it would harm the character and appearance of the area and harm GCN, matters which I consider respectively have significant and substantial weight. Accordingly, the other considerations outlined above in support of the proposal would not individually or collectively clearly outweigh the harm to the Green Belt due to inappropriateness and its effect on openness and the other harm in this case. Consequently, very special circumstances to justify the proposal do not exist.

Other Matters

42. Subject to planning conditions the proposal would be acceptable with regard to car and cycle parking provision, would dispose of foul water and surface water run-off in a controlled way and the dwellings would be energy and water efficient. It would provide satisfactory living conditions on the site for future occupiers and have no adverse effect on the living conditions of existing occupiers of other dwellings. The site is not in, or in the setting of a conservation area. The absence of harm in these regards is a neutral factor in my decision.
43. Little Stumblehole Barn is a grade II listed building (the LB). Its significance includes its innate historic and architectural early 18th century origins constructed for rural storage or livestock use. It has had later 20th century alterations and additions for use as a dwelling. It is a significant distance from

the site, separated by Deanoak Lane and intervening planting with a context defined mostly by more immediate buildings, fields or gardens closer to it. The site is not, therefore, part of this more discrete setting of the LB. As such, the proposal would have a neutral effect on the setting of the LB, so preserve the setting of the LB and cause no harm to this designated heritage asset. This is a neutral factor in my decision.

Planning Balance and Conclusion

44. The Council agrees that it cannot demonstrate a 4 or 5 year supply of deliverable housing sites, at 2.9 years¹³, against its housing requirement including appropriate buffer and is not disputed by the appellant. Accordingly, by virtue of footnote 8, Framework paragraph 11 d) is engaged and the starting point is that planning permission should be granted.
45. However, in this appeal there would be no net gain in housing provision because of the extant PP, and the application of policies in the Framework that protect areas or assets of particular importance (the Green Belt and GCN) provide a clear reason for refusing the proposal. In these circumstances the presumption in favour of sustainable development (the 'tilted balance') does not apply and the benefits of granting planning permission would not outweigh the harm.
46. The proposal conflicts with the development plan overall and with relevant provisions of the Framework. There are no other material considerations to indicate that the decision should be taken other than in accordance with the development plan¹⁴. Consequently, for the reasons given above the proposal is unacceptable so the appeal does not succeed.

Robin Buchanan

INSPECTOR

¹³ Five-Year Housing Land Supply Annual Review: 2022 to 2027, published June 2022

¹⁴ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12