



Appeal Decision

Site visit made on 18 April 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 May 2024

Appeal Ref: APP/R3650/W/23/3328470

Frensham Meadow, Bacon Lane, Frensham, Surrey GU10 2QB

- 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 Mr Shubbrook and Mrs Hanly against the decision of Waverley Borough Council.
 - The application Ref is WA/2022/02570.
 - The development proposed is part change of use/conversion of equestrian building together with alterations to form an independent self-contained dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for part change of use/conversion of equestrian building together with alterations to form an independent self-contained dwelling at Frensham Meadow, Bacon Lane, Frensham GU10 2QB in accordance with the terms of the application, Ref WA/2022/02570, subject to the conditions set out in the schedule below.

Application for Costs

2. An application for costs was made by Mr Shubbrook and Mrs Hanly against Waverley Borough Council. This application is the subject of a separate decision.

Preliminary Matter

3. On 21 March 2023 the Council adopted the Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies (the LPP2). This is a change which has occurred since the Council's refusal of the application and the LPP2 effectively replaces those remaining policies of the Local Plan 2002, which were part of the development plan at the time the application was determined. Both main parties have had the opportunity to comment on the implications of this change.

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 character and appearance of the area, including the Surrey Hills Area of Outstanding Natural Beauty (AONB), and;
 - The effects of the proposal on designated Habitat Sites.

Reasons

Whether Inappropriate

5. The Framework, at paragraph 142 identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework establishes, in paragraph 155, certain forms of development which are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. This includes d) the re-use of buildings provided that the buildings are of permanent and substantial construction.
6. Policy RE2 of the Local Plan Part 1: Strategic Policies and Sites, adopted 2018 (the LPP1) states that the Green Belt will be protected against inappropriate development in accordance with the Framework. The building to which the appeal relates is of permanent and substantial construction. It therefore falls to be considered whether the proposal would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
7. The appeal site is surrounded predominantly by flat, open grassland, as well as areas of woodland to the north and east. The wider area comprises largely open countryside with occasional residential properties set within generous sized plots. The openness of the wider area is therefore established by the dispersed pattern of development and predominance of open fields and vegetation.
8. No alterations are proposed to the footprint or scale of the existing building, although there would likely be some paraphernalia added to the site in association with a residential use. The outdoor amenity area, however, is shown to be contained within the central courtyard. As this area is heavily enclosed, and as some degree of paraphernalia already exists in connection with the stables, the use of this area by future occupants would preserve the openness of the Green Belt and would not encroach into the countryside. The parking areas would be in the same location as existing, where they would be close to the main building and also preserve openness when considered against the existing situation. While there could be an increase in vehicles visiting the site as a result of the proposal, these would be transient and there would inevitably be vehicle movements associated with the existing stable use. Those vehicle movements would not cause harm to openness.
9. An area enclosed by wire fencing exists to the south of the building which contains some raised planting beds and more formal planting against the edge of the building. There are also features including a chicken coop and storage areas to the south west of the building. The majority of these areas would appear to fall outside the red line boundary of the appeal site. However, even if they were not, the associated landscaping of this space is low level and not harmful to the openness of the area, particularly given other trees and garden areas to the east.
10. No outbuildings are proposed and neither is there substantive evidence that the proposed change of use would create a need for them. As such I cannot assume that openness would be harmed in this respect. The lean-to to the

northern side of the building has been approved separately on its own merits and again does not fall for me to reconsider as part of this appeal.

11. For these reasons, the proposal would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. Accordingly, the proposal would meet the exception to inappropriate development given at paragraph 155d) of the Framework and would not be inappropriate. The proposal would comply with policy RE2 of the LPP1 and the objectives of the Framework in respect of Green Belts. It is not therefore necessary to consider whether very special circumstances exist for Green Belt purposes.

Character and Appearance

12. The site lies within the Surrey Hills AONB and an Area of Great Landscape Value (AGLV). The Surrey Hills AONB Management Plan 2020- 2025 describes the landscape character as comprising an intriguingly diverse landscape characterised by hills and valleys, traditional mixed farming, patchwork of chalk and grassland and heathland, sunken lanes, and picturesque villages and market towns. It identifies housing development as one of the key pressures and threats.
13. The wider area surrounding the appeal site is distinctly rural, comprising open fields and grassland, interspersed by areas of woodland and mature hedgerows. Houses set in generous plots are peppered across the landscape, and a cluster of buildings exists to the north of the appeal site associated with recreational uses at Frensham Pond. The appeal site lies at the back of an expanse of flat grassland used for grazing of horses, and a number of smaller field shelters can be seen close to the edges of the surrounding paddocks.
14. Views of the site are possible to varying degrees from Bacon Lane, primarily in gaps in the hedgerow which inevitably vary in size throughout the year. The visual effects of the building and its associated parking areas have been found to be acceptable with the grant of the original planning permission¹. As above, the visual effects of paraphernalia associated with the proposal would be contained close to the main building and I note that the plans of the original approval included soft landscaping around the outside of the building. For these reasons together, the visual effects of the change of use would be very limited.
15. At night the proposed use may cause windows to be lit for longer periods. However, the windows which would serve the residential parts of the building are modest in size and face into the courtyard or are positioned on the southern and eastern elevations, where they would not appear prominent in public views. Even if some visibility of those windows were to occur at night, this would not amount to harm to the landscape character given their scale, low level position and given the presence of other properties in the surrounding landscape. Given the size of the windows, and in the absence of substantive evidence to the contrary, the proposal would not cause unacceptable light spillage.
16. As above, the proposal does not include outbuildings, garaging, extensions, nor the redevelopment of the building, and neither is there evidence to suggest that these would be necessary or that they would necessarily cause harm to the landscape. I note the concerns for the cumulative effects of stable

¹ WA/2013/1129

conversions across the area, however each proposal must be assessed on its own merits and circumstances. Given the lawful use of the existing building, together with the proposed level of occupation and presence of other roads and residential uses in the wider area, the effects of vehicles visiting the site would not amount to harm to the character nor appearance of the area or landscape character.

17. For the reasons given, the proposal would sit comfortably within this landscape setting and would preserve and enhance those attributes which contribute positively to the landscape character of the AONB and AGLV. The proposal would comply with policy RE3 of the LPP1 and policies DM1 and DM4 of the LPP2 which require, among other things, protection and enhancement of the character and qualities of the AONB and AGLV and high quality design which responds to landscape character. The proposal would not conflict with the Planning Management Policies of the AONB Management Plan nor with the objectives of the Framework in respect of AONBs and landscape character.

Habitat Sites

18. The appeal site is located within 400m of the Thursley, Ash, Pirbright and Chobham Special Area of Conservation (SAC) and Thursley, Hankley and Frensham Commons Special Protection Area (SPA), which is part of the Wealden Heaths Phase 1 SPA. The sites are of importance for characteristics including their heathland habitats which support bird species including breeding populations of Nightjar, Woodlark and Dartford Warbler. Key threats and pressures include public access and recreational disturbance, and air pollution. The appellants acknowledge that air pollution can result in significant effects for those habitats and species that serve as qualifying features for the designated sites. Recreational pressures, including dog walking, can cause disturbance to birds, lead to increased bird stress levels and reduced fitness and breeding success, as well as habitat degradation.
19. The appeal scheme is not directly connected with or necessary for the management of the designated sites. The proposal has the potential to accommodate up to four permanent residents and the Habitat Sites are a short distance and easily accessible from the site. The appellants have provided a Habitat Regulations Screening Statement (HRSS) specific to the proposal which accordingly identifies the potential for an increase in visitors to the Habitat Sites, and increased vehicle movements and air pollution as a result of the proposal. There would therefore be a pathway for effects on the qualifying features of the Sites and, adopting the necessary precautionary principle, a likely significant effect could not be ruled out.
20. The HRSS considers in greater detail the effects which could arise from the proposal. In terms of air pollution, it concludes that, given the scale of the proposal and likely level of occupation, changes in annual average daily traffic would not trigger an exceedance of 1% of critical levels and critical loads in relation to the qualifying habitat of the Sites, which is a threshold taken from Natural England guidance. Based on the evidence before me, I have no strong reason to reach a different view and adverse effects on the integrity of the Sites can be ruled out in terms of air pollution.
21. In respect of recreational disturbance, the appellants draw on the Council's Habitats Regulation Assessment which formed part of the evidence base for the

LPP1 (the LPP1 HRA). This found that only windfall development might come forward within 400m of the SPA and few, approximately 40 dwellings and gypsy and traveller pitches, were expected in this area between 2016 and 2032. The LPP1 HRA found that it was unlikely that the associated increase in visitors across that period would result in a perceptible change in the exposure to disturbing activity to bird populations, thus would not result in an adverse effect on the integrity of the SPA by preventing it from meeting its conservation objectives. A legal opinion obtained by the Council in April 2021 found that 16 dwellings had been allowed within 400m of the SPA since the assessment was published in 2016.

22. Even adopting the necessary precautionary approach, given the quantum of housing allowed in this area between 2016 and 2021, it is unlikely that 40 dwellings have now been allowed and there is no substantive evidence to suggest this is the case. As such, the amount of residential development within 400m of the SPA remains below the threshold anticipated by the LPP1 HRA, which was considered not to result in an adverse effect.
23. I note the objection from Natural England, who have considered the proposal and supporting documents including the HRSS and Council's legal opinion. Comments from Natural England on another scheme, dated December 2021, have also been forwarded as those responded to the legal opinion. While the passage of time may have seen increases in the amount of housing coming forward generally, there is not substantive evidence as to its effects on the SPA or its surrounding areas. Neither is there evidence that the approach was revisited as part of the adoption of the LPP2 as was suggested. As such, there is not substantive evidence which would lead me to a different conclusion to the LPP1 HRA.
24. For these reasons taken together, the proposal, either alone or in combination with other plans and projects, would not compromise the conservation objectives of the qualifying features of the Sites, nor lead to an adverse effect on the integrity of the Sites. The proposal would comply with policy NE1 of the LPP1 and the objectives of the Framework insofar as it relates to protection of Habitat Sites.
25. The appeal site also lies within 5km of the Wealden Heaths Phase II SPA, which shares many of the same habitat characteristics, qualifying features and threats as the Phase I SPA. The effects of the proposal on the Phase II SPA are not in dispute. Given the scale of the development and distance from the Phase II SPA, it would not result in a likely significant effect on the integrity of the site and the favourable conservation status of its qualifying features, either alone or in combination with other plans and projects.

Other Matters

26. The Council accept that it cannot demonstrate a five year land supply for housing. Accordingly, the provisions of paragraph 11d) of the Framework are relevant to the appeal. For the reasons set out the application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed, nor have adverse impacts been found. The proposal therefore benefits from the presumption in favour of sustainable development, which adds weight in favour of granting planning permission.

27. The earlier enforcement notice and appeal associated with the site² did not consider the matter of whether planning permission should be granted and the planning merits of the case would not have been considered. As such, it does not provide reason to alter the above judgement. Concerns relating to unauthorised uses of the site and any potential breach of planning conditions are matters for the Council. While there may have been breaches of planning control on the site, this does not amount to a consideration of sufficient weight to determine the appeal other than in accordance with the development plan. I note the Council's assessment in terms of the principle of rural housing and I do not have substantive evidence to reach a different view in terms of the accessibility of the site to services and facilities.

Conditions

28. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
29. In addition to the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans to provide certainty. For environmental reasons, a condition is necessary to secure a vehicle charging point and, to preserve visual amenity, external lighting should be restricted unless details are first provided to the Council's satisfaction.
30. Since other mechanisms exist for amending the approved plans, a condition preventing variations would not meet the test of necessity. I have not been provided with evidence of circumstances particular to this site to justify a stricter approach to permitted development rights than exist on other properties in the Green Belt and AONB. Given the circumstances of the site and its surroundings, together with the presumption against such a condition in national policy and guidance, a condition removing certain permitted development rights is not reasonable or necessary.

Conclusion

31. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is allowed.

C Shearing

INSPECTOR

² EN/2020/08 and APP/R3650/C/21/3275455 and 3275456

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: S03 Rev.A, S05, 518-10, 'D&M 1 Location Plan'.
- 2) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 3) Within 3 months of the occupation of the building, at least one electric vehicle charging point shall be installed to the site and shall be maintained thereafter.
- 4) No external lighting shall be installed to the building unless details have first been submitted to, and approved in writing by the local planning authority. Any external lighting shall be installed only in accordance with those details.

End of Schedule