



Appeal Decision

Site visit made on 20 May 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal Ref: APP/Y3615/W/23/3331768

Three Acre Barn, Guildford Road, Effingham KT24 5QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Roy McEntee against the decision of Guildford Borough Council.
 - The application Ref is 22/P/02136.
 - The development proposed was described as 'a residential dwelling'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with the principle of the proposal and details of access, appearance, layout and scale to be considered now. The Council did not object to the means of access from Guildford Road, which already exists, or to the details of the appearance of the dwelling. I have therefore determined the appeal on this same basis. The appellant has referred to some proposed landscaping but these details were reserved for future determination so show one possibility.
3. The National Planning Policy Framework (NPPF) was revised on 19 December 2023. There are no relevant material changes but I have referred to equivalent re-numbered paragraphs or footnotes where necessary.

Background and Main Issues

4. The site is in the Green Belt. Planning permission was granted for a dwelling by converting and extending a two-storey barn and a single-storey stables that were on the site (the PP)¹.
5. A subsequent proposed replacement dwelling was dismissed on appeal². The Inspector's findings – that an unlawful residential use of the barn had ceased and that the PP had been commenced at least by excavation of a trench for a glazed link – are not in dispute. Thereafter the barn (or both buildings) inadvertently collapsed during the conversion works and both have since been removed from the site.
6. The appellant maintains that the current appeal proposal is for a replacement dwelling. The Council has also referred to the possibility of the site being previously developed land.

¹ Ref 18/P/00209

² APP/Y3615/W/19/3238475

7. Considering this background, the main issues in this appeal are:

- whether the proposal is inappropriate development in the Green Belt, including its effect on openness, having regard to local and national planning policy;
- the effect of the proposal on protected trees;
- whether the dwelling would be sustainable in design and construction; and
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to very special circumstances required to justify the proposal.

Reasons

Planning policy

8. Policy P2 of the Guildford Borough Local Plan Strategy and Sites April 2019 (SS) resists inappropriate development in the Green Belt unless there are very special circumstances. It also sets out that constructing new buildings in the Green Belt will constitute inappropriate development unless they are within the exceptions identified by the NPPF. Additionally, very special circumstances will not exist unless potential harm to the Green Belt by inappropriateness and any other harm is clearly outweighed by other considerations. These aspects of SS Policy P2 are consistent with objectives of the NPPF to protect Green Belt land and to regard the construction of new buildings as inappropriate development in the Green Belt, subject to certain exceptions.
9. In this case the exception at paragraph 154 d) is potentially relevant. It is for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. For the purposes of SS Policy P2 a new building is a replacement if it is also sited on or in a position that substantially overlaps the original building; unless it can be clearly demonstrated that an alternative position would not increase the overall impact on the openness of the Green Belt. The exception at paragraph 154 g) is also potentially relevant. It includes the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development. The NPPF also sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Whether inappropriate development

10. The paragraph 154 d) exception cannot apply as there is no building on the site to be replaced. I do not therefore need to consider whether the new building would be in the same use or not materially larger than the one it would replace. Nor if, under SS Policy P2, it would substantially overlap the original building or there is an appropriate alternative position. For this same reason I also do not need to consider the effect of the proposal on the openness of the Green Belt in these respects.
11. With regard to the paragraph 154 g) exception, and in the absence of evidence to the contrary, I saw remnants of the barn or stables concrete floor slab, or of ancillary concrete hardstanding apron, on the site. A newer concrete strip

foundation has been constructed around these structures. Four courses of concrete breeze blocks are placed (not fixed with mortar) on top of the strip foundation to form a perimeter. I have not been informed about any planning permission for the strip foundation or if it benefits from a lawful development certificate.

12. The site was, though, occupied by a permanent structure (at least the barn) and associated fixed surface infrastructure (the hardstanding, including for the stables). While the barn no longer exists, the remains of the floor slab or hardstanding are still largely intact and visible so have not blended into the landscape. Accordingly, even if the barn was originally built for agricultural use, the site includes, by definition, previously-developed land (PDL)³. The dwelling would be on a small part of the site so the proposal is for a partial redevelopment of this PDL.
13. However, the floor slab or hardstanding is essentially at ground level. By comparison, and albeit relatively low to eaves, the vertical elevations of the dwelling would be significantly taller and, though mainly hipped, most of the roof proportionately even taller from eaves to ridge. Additionally, the footprint of the dwelling would in places stretch beyond the floor slab or hardstanding.
14. Consequently, there would be a substantial increase in the overall layout, scale, massing or bulk of built form on this part of the site. As a result it would no longer be developed in any equivalent or comparative sense to its current condition. This would be apparent in public views from an elevated footway next to Guildford Road, between boundary trees and hedgerow especially in winter months. The dwelling would have a permanent innate spatial presence and a clear visual presence in the Green Belt with a greater impact on the openness of the Green Belt than the existing development. Albeit by a small amount overall, it would nonetheless reduce the openness of the Green Belt which is one of its essential characteristics.
15. Taking account of all the above, the dwelling is contrary to SS Policy P2 because it fails to meet the exceptions in NPPF paragraphs 154 d) and 154 g). Consequently, I find that the proposal is inappropriate development in the Green Belt.

Protected trees

16. A row of tall, mature deciduous trees along the northwest boundary of the site have significant visual amenity value and are protected by a Tree Preservation Order. Part of the strip foundation has been constructed in a line parallel to these trees and is, as I paced out, within about 3m of the nearest trunks⁴. With the appeal the appellant submitted a tree report⁵. Although prepared for the PP proposal it confirms that some of these trees were in a higher 'moderate' category B condition with more than 40 years life expectancy. Also, that ground and other tree protection measures would have been necessary inside the root protection area of some of these trees. There is no evidence that any of these recommendations were adhered to when the strip foundation was constructed.

³ NPPF Annex 2: Glossary

⁴ The as proposed 'site/block plan' (drawing number 2252 P02 Rev 00) does not have a scale bar

⁵ Arboricultural Impact Assessment & Method Statement, Feb17 – Bernie Harverson arboricultural consultant

17. However, the T-shape floorplan of the proposed dwelling is different to the PP, including a rear nub not evident in the shape of the strip foundation. According to the as proposed site/block plan most of the rear elevation of the dwelling should be much further than 3m from these tree trunks, but this doesn't match the position of the strip foundation on the site, if that is intended to be the same. Also, in this plan one corner of the rear nub is shown significantly closer than 3m to some tree trunks so on the face of it, and in any event, with potential for significant adverse impact on these trees.
18. Notwithstanding the Council's suggested condition for an arboricultural method statement and tree protection plan, in my view this consideration relates to the layout and scale of the development. It is therefore relevant to an in principle decision to grant outline planning permission. Even if a piled foundation was appropriate, as the appellant suggests, I cannot be certain about this now, so these details cannot be relegated to a condition as part of the landscaping reserved matters as the appellant contends.
19. Accordingly, I am not satisfied the appellant has demonstrated that important trees would be protected given the details of layout and scale relative to the strip foundation already constructed on the site. In these circumstances, I find that there would be harm (or further harm) to these trees. Consequently, the proposal is contrary to Policy P6(5) of the Guildford Borough Local Plan Development Management Policies March 2023 (DMP) which requires proposals to incorporate significant trees and their root structures in undeveloped land.

Sustainable design and construction

20. The appellant's design and access statement outlines some relevant measures for energy and water conservation to be incorporated into the fabric or construction of the dwelling. There is no evidence that suitable details in these regards, as well as an electric vehicle fast charge socket, would materially affect the appearance, layout or scale of the dwelling; or the appearance, layout and landscaping of the site. There is therefore no apparent reason why they could not be secured and approved by the Council by a condition, including a 'Climate Change, Energy and Sustainable Development Questionnaire', or under other powers such as Building Regulations.
21. In these circumstances, I find that the dwelling would be sustainable in design and construction. Consequently, the proposal complies with DMP Policy D2(1) and (3). Amongst other things, these policies require information about how sustainable design and construction practice will be incorporated, proportionate to the size of smaller development.

Other considerations

22. There is no building on the site to be replaced by the proposed dwelling, let alone one in residential use. Even though the PP for a conversion of the original buildings on the site was started, no dwelling was substantially completed and no lawful residential use came into effect. There is no longer any redundant or disused building of permanent and substantial construction to potentially be re-used as a dwelling. I sympathise with the appellant's predicament in these respects, including the loss of the barn and stables buildings, albeit the precise reasons for this have not been explained. But, as a result there is no possibility of a fallback position in any of these respects to 'recover'. Nor have I been informed about any planning permission or lawful development certificate for

proposed reinstatement of these buildings and uses. Accordingly, I give no weight to these considerations.

23. There is no evidence the site is located inside the Council's defined settlement boundary for Effingham. The dwelling would be in the countryside where the Council's development plan restricts new dwellings, unless they can be justified. Dwellings next to or near the site, including those that I have been referred to, are individually scattered or in short sporadic ribbons along roads or private drives in the landscape, not within a built-up area or the environs of any settlement, including Effingham; this village has a distinct core significantly further to the northeast of the site separated from it by open countryside. Accordingly, the proposal would not result in development, including limited infilling, in a village in the countryside or in the Green Belt. No other reason has been suggested to justify the location of this otherwise isolated home in the countryside, so I give no weight to these considerations.
24. Until recently the site contained buildings that had a rural design and were sufficiently intact to have warranted a grant of planning permission for their conversion to a dwelling. The Council did not object to the broadly rural building design of the dwelling in this case or to the effect of the proposal overall on the character and appearance of the area. Subject to a condition the dwelling could incorporate high quality external materials. There would be satisfactory internal and external living conditions for the future occupiers of the dwelling, including disabled persons, and the proposal would not adversely affect the living conditions of the existing occupiers of any dwelling. The absence of harm in these respects are neutral factors in my decision.
25. Satisfactory landscaping details could be resolved via a standard reserved matters condition to help assimilate the development into its setting. But there is no compelling evidence of other enhancement as a result of the proposal, including that it is the only means to remove some temporary or mobile portable buildings and shipping containers from the site. Landscaping could include appropriate measures for ecology enhancement at the site with these details secured by a condition. However, given my finding about protected trees, the appellant has not demonstrated that there would be an overall net gain in biodiversity at the site. I therefore give little weight to these considerations in this appeal.
26. The Council can demonstrate a five year supply of deliverable housing sites with an appropriate buffer and it met the Government's 2022 Housing Delivery Test. Consequently, by virtue of footnote 8, NPPF paragraph 11 d) is not engaged and the presumption in favour of sustainable development (the 'tilted balance') does not apply in this appeal. The net gain of a dwelling would, though, be aligned with objectives of the NPPF to significantly boost the supply of homes. The social and economic benefits of constructing and occupying a single dwelling would be limited so these considerations have modest weight.

Green Belt Balance

27. The proposal is inappropriate development in the Green Belt contrary to local and national policy to protect the Green Belt. I give substantial weight to this harm to the Green Belt. There would also be harm to protected trees, which adds further significant weight against the appeal. 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 harm to the protected trees. Consequently, very special circumstances to justify the proposal do not exist.

Other Matters

28. The site is within a zone of influence of the Thames Basin Heaths Special Protection Area (the SPA). This European site is protected due to habitat and species important for nature conservation⁶. However, as I intend to dismiss the appeal for other reasons, even if the proposal did not adversely affect the integrity of the SPA there is no need for me to consider this matter any further. This is because it would not affect my decision or therefore alter the outcome of the appeal.

Planning Balance and Conclusion

29. The proposal conflicts with the development plan overall and with relevant provisions of the NPPF. There are no other material considerations to indicate that the decision should be taken other than in accordance with the development plan⁷. Consequently, for the reasons given above the proposal is unacceptable so the appeal does not succeed.

Robin Buchanan

INSPECTOR

⁶ The Conservation of Habitats and Species Regulations 2017 (as amended)

⁷ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended)