

Appeal Decision

Site visit made on 4 September 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/A3655/W/24/3340340

**Land Adjacent to Stella Maris, Sutton Green Road, Sutton Green,
Guildford, Surrey GU4 7QD**

- 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 Nick Jarvis (Glenwood Homes Ltd) against the decision of Woking Borough Council.
 - The application reference is PLAN/2023/0800.
 - The development proposed is the erection of a detached two storey dwelling on land adjacent to Stella Maris.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 30 July 2024, the Government published a consultation on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation", alongside a Written Ministerial Statement (WMS) entitled "Building the homes we need". I have had regard to these as material considerations, albeit noting the Framework text is in draft and subject to change, which limits the weight to be afforded to it at this stage.

Main Issues

3. The appeal site lies within an area of Green Belt. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies and the provisions of the National Planning Policy Framework (the Framework);
 - The effect on the openness of the Green Belt and the purposes of including land within it;
 - The effect of the proposal on protected nature sites;
 - If the proposal would be inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

4. The Government attaches great importance to Green Belts. Paragraph 154 of the Framework (previously Paragraph 149) states that the construction of new buildings within the Green Belt is inappropriate development but it lists certain forms of development which are not regarded as inappropriate, including e) limited infilling in villages.
5. Policy CS6 of the Woking Core Strategy (October 2012) (the WCS) and Policy DM13 of the Development Management Policies Development Plan Document (October 2016) (the DMP) set out that inappropriate development on land within the Green Belt will be strictly controlled in line with the approach of the Framework. Both policies contain a number of additional criteria for certain types and locations of development in the Green Belt, but none are applicable to the proposal before me.
6. Therefore, the assessment to be made is against criterion e) of Paragraph 154 of the Framework. The determinative questions to be considered are, firstly, whether the proposal would constitute infilling, and *limited* infilling at that, and secondly, whether it would be within a village.
7. The Framework does not define 'limited infilling' and there is no definition set out in the development plan policies put to me. However, a straightforward interpretation of the term 'infilling' would indicate that the development would occupy a gap between two buildings or developments within a built-up frontage. The appeal site is a vacant plot of land in a natural, overgrown state on Sutton Green Road, a road characterised by linear housing development along both sides. The site lies between two dwellings, Stella Maris and Compton, and in this respect, would infill the gap between them.
8. The Council argues that the size of the gap is significant, at some 84.5 meters, which is due to Compton's garden being primarily to the side of the dwelling when looking from the lane. However, whilst that is a 'gap' in terms of being absent built form, I saw it to form a contiguous part of the domestic garden of Compton, and not a separate area of land. As such, the gap in practical terms is that of the appeal site itself, some 29.6 metres in width.
9. Dwellings on Sutton Green Road include semi-detached pairs composed in red brick with hipped roofs, but also detached dwellings of individual designs on plots of varying sizes. This includes a small number of detached dwellings on particularly large plots, including Compton, Quaves Cottage and Quaves Hatch close to the site. In this context, I find that the appeal site would fall within the range of plot sizes in the immediate surroundings.
10. The larger dwellings also have broad frontages which span across the widths of the plots, and the semi-detached pairs, although individually narrower, have cumulative massing and footprint width that is comparable to the larger detached dwellings. Thus, the proposed dwelling would not appear excessive in scale or plot coverage, but would reflect the surrounding pattern of development. In these respects, I am satisfied that the proposal would constitute a form of limited infill development.
11. I turn to whether the proposal would be within a village. As above, neither the Framework nor the development plan provide a definition of 'village' for

the purposes of assessing development in the Green Belt. Having regard to relevant case law,¹ whether the proposal falls within a village is ultimately a matter of planning judgement based on the facts on the ground.

12. The immediate area includes the aforementioned linear housing on Sutton Green Road. The appellant refers to two further clusters of linear development to the north along New Lane, which include a village hall and All Souls Church. A car repair garage stands at the junction of New Lane with a public house, the Olive Tree, just beyond the junction and a plant nursery slightly further along which includes a café, children's farm and farm shop. A recreation ground is also located behind the dwellings on Sutton Green Road. In these respects, the surrounding area has a small number of facilities one would expect to find in a village.
13. However, I saw no identifiable village centre or edge. The dwellings on Sutton Green Road are physically detached from those on New Lane by a wood on one side and a large, open field on the other. By itself, the development along Sutton Green Road is no more than a small linear group of housing surrounded by open countryside. Overall, my observations were that the built form on New Lane and Sutton Green Road are small, separate clusters that are part of a dispersed pattern of rural development in the wider area, where similar small clusters and scattered housing exist on other nearby roads such as Whitmoor Lane and Pyle Hill.
14. The appellant cites the presence of All Souls Church and another, St Edward the Confessor Church some 800m away, in support of Sutton Green being a village rather than a hamlet, as the latter is traditionally a settlement without a church. However, neither church is in the same cluster of development as the appeal site, and St Edward's is some distance away and separated by open countryside. A village is larger than a hamlet, but I find that the area described by the appellant, taking in discrete clusters of development and a church some distance away, is a somewhat artificial construction that is not recognisable as a village on the ground, particularly as it includes a church some 800 metres away but not, for example, dwellings on Pyle Hill that are significantly closer to dwellings on New Lane.
15. I accept that the facilities in the area are likely to be used by those living on Sutton Green Road and New Lane, and that there may be a functional connection between the identified clusters of development. However, the decisive consideration in my view is the physical separation of the housing clusters, with those on New Lane in particular being little more than scattered rural housing. Taken by itself, and even accounting for the public house, garage and recreation ground, the size and function of the largest cluster on Sutton Green Road is more akin to a hamlet.
16. For these reasons, I conclude that the appeal site does not lie within a village. Therefore, the proposal would not amount to limited infilling within a village within the meaning of criterion e) of Paragraph 154 of the Framework. No other exceptions are argued. Consequently, the proposal would constitute inappropriate development within the Green Belt. This would conflict with the approach of Policies CS6 and DM13 to development in the Green Belt.

¹ Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council
EWCA Civ 195 - 9 February 2015

Openness and Green Belt Purposes

17. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
18. The appeal site is an undeveloped parcel of land that is in a natural and overgrown state. A substantial stand of trees to the rear screens the site from dwellings on Foxes Path and the wider countryside beyond. However, the site is located where the layout of dwellings becomes more spacious with glimpses across larger gardens to the countryside beyond. The lane also adopts an increasingly sylvan character with mature trees and hedgerows lining the route. The undeveloped site contributes to this natural character and sense of openness.
19. The construction of a dwelling on the site would result in built development where there is presently none. The dwelling would be a substantial, detached building presenting a broad frontage to the road. Its massing, along with any accompanying domestic features such as hard landscaping, parking areas and boundary treatments, would lead to a demonstrable loss of openness in both spatial and visual terms.
20. With respect to the purposes of the Green Belt, given my findings above that the proposal would not amount to infilling within a village, the proposal would lead to encroachment of development into the countryside and would impact on this related Green Belt purpose.

Protected Nature Sites

21. The appeal site lies within a 5km zone of influence of the Thames Basin Heaths Special Protection Area (SPA), designated for the conservation of rare and vulnerable species ground or low level nesting birds easily disturbed by human activity, in particular recreational activity such as dog walking and predation by domestic cats.
22. Additional residents resulting from the development could lead to increased visitor pressure on the SPA. In combination with other development, this could result in harm to the integrity of the European Site and its conservation objectives. Accordingly, Appropriate Assessment (AA) under the Conservation of Habitats and Species Regulations 2017 is required which I have conducted on a proportionate basis on the evidence provided.
23. The Council's Updated Thames Basin Heath Avoidance Strategy (February 2022) (the TBHAS) sets out an approach to avoiding significant effects on the SPA, guided by Natural England. It includes provision and maintenance of suitable alternative natural greenspace (SANG) to attract people away from the SPA; strategic access management and monitoring (SAMM) to monitor and manage the impact of people using the SPA; and habitat management of the SPA to improve the habitats of the protected birds.
24. The strategy sets out that development resulting in net additional dwellings within the 400m to 5km zone of the SPA is likely to have a significant effect on the integrity of the SPA and therefore avoidance/mitigation measures need to be put in place to account for each additional dwelling. The

avoidance measures include contributions towards SANG provision and maintenance and contributions towards SAMM.

25. SANG is deemed to constitute infrastructure and is therefore secured through the Community Infrastructure Levy. SAMM is a tariff-based contribution used to fund a wardening scheme which monitors and manages access to the SPA and encourages people to use SANGs in the alternative. As these processes of securing mitigation have been drawn up in consultation with Natural England, I am satisfied that a planning obligation securing SAMM contribution could be used so as to avoid significant adverse effects on the SPA. The SAMM contribution in this case is given at £1,180.
26. The appellant has provided a signed unilateral undertaking (UU) which commits to paying a SAMM contribution. The SAMM figure set out in the UU is £900, but the definition includes a proviso that the sum shall be increased in line with any increase in the Retail Price Index between the date of the UU and the latest published figure on the date payment is made to the Council. Given this, I am satisfied that the UU would be capable of securing the required contribution towards SAMM. Moreover, although the UU does not bind the Council, I have no clear reason to doubt that, as a responsible public body, it would not direct the money in the way it is intended.
27. In carrying out the AA, therefore, I find that adverse effects would be avoided and the proposal would not adversely affect the integrity of the SPA, either alone or in combination with other development. No conflict therefore arises with CS Policy CS8 or saved Policy NRM6 of the South East Plan (2009) which both require adequate measures to avoid or mitigate any potential adverse effects on the SPA.

Other Considerations

28. The dwelling is proposed to achieve Passivhaus standards. The appellant refers to the support in the Framework, at Paragraph 84(e) (previously 80(e)), for dwellings in the countryside if the design is of exceptional quality: truly outstanding, reflecting the highest standards in architecture; would help to raise standards of design more generally in rural areas and would significantly enhance its immediate setting. Further reference is made to Paragraph 139 (previously 134), which states that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
29. The benefits of a Passivhaus in terms of energy efficiency are acknowledged, but such dwellings are no longer unique or groundbreaking. Whilst the inclusion of designs and technologies to achieve Passivhaus standard is to be commended, the proposal is not a design which could be described as reflecting the highest standards of architecture, given the dwelling is of a fairly standard form with dual front gables, a hipped roof and a number of flat-roofed side and rear projections akin to common domestic extensions. Thus I am not persuaded that the dwelling should be considered as an outstanding or innovative design.
30. The appellant refers to a 'significant number of applications' for Paragraph 84 homes being granted in recent years, but no particulars have been put to me and I cannot glean any comparison with the appeal scheme. Moreover,

Paragraph 84 is framed so as to exceptionally permit certain types of development that would otherwise be resisted in isolated parts of the countryside. The site is not isolated in physical terms, and thus the proposal does not potentially gain support under Paragraph 84.

31. This aside, there is also no substantive evidence that Passivhaus dwellings need to be located in the Green Belt, and indeed there is no exception to inappropriate development related to sustainable design or energy efficiency set out in the Framework. Were Passivhaus proposals otherwise accepted as justifying inappropriate development, it could lead to repeated development of such schemes in the Green Belt which would undermine its purpose to keep land permanently open, as well as running contrary to the wider approach of the Framework to direct development to sustainable locations with good access to services and reduced reliance on the private car for transport. In light of these factors, and the small scale of the proposal, I afford the benefits of achieving Passivhaus standards limited weight in favour of the proposal.
32. There would be economic benefits from the construction of the dwelling and future contributions of residents to the local economy. However, these would attract only limited weight given the small scale of the development.
33. The Council did not refuse the proposal for other reasons, including general character and appearance, neighbours' living conditions, highway safety, ecology, trees, flood risk and land contamination. I have noted comments from neighbouring residents in some of these matters, but on the evidence before me, I have not identified compelling reasons to depart from the Council's conclusions. An absence of harm in these matters means they are neutral considerations weighing neither for nor against the development.

Planning Balance and Conclusion

34. The proposal would amount to inappropriate development in the Green Belt, which the Framework indicates is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition there are adverse impacts on openness and the Green Belt purpose of safeguarding the countryside from encroachment. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
35. As explained above, I give limited weight to each of the material considerations in support of the proposal and conclude that, taken together, they do not clearly outweigh the harm the scheme would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.
36. The proposal would result in conflict with the development plan, taken as a whole. Material considerations in this case, in particular the Framework, do not indicate that permission should nevertheless be forthcoming in spite of this conflict. Therefore, I conclude that the appeal should be dismissed.

K. Savage

INSPECTOR