



Appeal Decision

Site visit made on 6 September 2024

by Lewis Condé BSc, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/R3650/W/24/3342590

Land at Green Lane, Churt, Farnham, GU10 2PA

- 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 Chapel Hill Homes against the decision of Waverley Borough Council.
 - The application Ref is PIP/2023/02151.
 - The development proposed is Permission in Principle for the erection of up to 2 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As explained in the Planning Practice Guidance ('PPG'), the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (the Order) is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for the proposed development from the technical detail. The scope of the first stage, that is to establish whether a site is suitable in principle for development, is limited to location, land use and amount of development. The second stage 'technical details consent' (TDC) is when the detailed development proposals are assessed. This appeal relates to the first stage.
3. Permission in principle has been sought for the erection of up to two dwellings at the appeal site and a plan showing the layout of two dwellings has been submitted with this appeal. However, the plan is marked as illustrative, and I have had regard to it only insofar as it is indicative of a development for two dwellings.
4. In November 2023, Areas of Outstanding Natural Beauty (AONBs) were renamed 'National Landscapes', and the Surrey Hills AONB within which the appeal site is located became known as the Surrey Hills National Landscape. I have therefore referred to National Landscapes and the Surrey Hills National Landscape (the SHNL) in my decision, except where legislation or policy documents continue to refer to AONBs.
5. 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. Additionally, both main parties have been offered the opportunity to comment on the consultation and WMS and where comments have been received these have been taken into account in my decision.

Main Issues

6. The main issues are:

- Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
- The effect of the development on the openness of the Green Belt;
- The effect of the development on the character and appearance of the Surrey Hills National Landscape and Area of Great Landscape Value; and
- If 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 the development.

Reasons

Whether inappropriate development in the Green Belt

7. The appeal site lies within the Metropolitan Green Belt. The Framework at paragraph 152, states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a limited number of exceptions as set out in paragraph 154 of the Framework. One such exception, that is of pertinence to this appeal, is limited infilling in villages, as established at paragraph 154e).
8. Policy RE2 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites (adopted 2018) (the LPP1), is consistent with national policy in that it specifically seeks to protect the openness of the Green Belt in accordance with the Framework.
9. The Framework does not set out a definition for limited infilling in a village. However, Policy DM14 of the Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies (adopted 2023) (the LPP2), expands upon some of the exceptions outlined under paragraph 154 of the Framework. The supporting text to Policy DM14 sets out the Council's approach to determining whether a development would be 'limited infilling'. It also sets out considerations for determining whether a development is within a village for the context of Green Belt policy.
10. In respect of limited infilling, the supporting text indicates that it is considered to be the development of a small gap in an otherwise continuous built-up frontage, or the small-scale redevelopment of existing properties in such a frontage. It also includes infilling of small gaps within built development.

11. I find that the definition for limited infilling that is detailed through the supporting text to Policy DM14 to be a suitable test, having regard to previous case law on this matter¹, as well as my own experience. Still, it remains a matter of planning judgement as to whether the proposal will result in limited infilling. While notwithstanding the definitions provided, to my mind, in order to be infilling the proposal must still fill the space or gap between other buildings whether within a continuous built-up frontage or within built development.
12. The appeal site is an undeveloped parcel of land that occupies a position between a residential dwelling to the west (Butts Barn) and another to the east (Brettwood). Residential development is also located opposite the site, along Green Lane. The adjacent Butts Barn occupies a position marginally set back from the highway, whereas Brettwood is set back a considerable distance. Notwithstanding the presence of entry gates and a manicured driveway, given the considerable set back nature of Brettwood, I find that the appeal site does not occupy a position within a continuous built-up frontage.
13. Furthermore, although I find the development of up to two dwellings to be limited, the frontage of the appeal site is rather sizeable. Due to the size of the site's frontage and the significant set-back of the adjacent property, I do not consider the proposal (irrespective of its final layout) would infill a small gap within built development.
14. In reaching the above view, I note the appellant's arguments that the Council take a narrow view as to what constitutes limited infilling and have referred to an appeal decision² for another scheme within the Borough. The Inspector in that case allowed development of a Green Belt site in Bramley, finding that the proposal resulted in limited infilling within a village. However, from the evidence before me the context of that appeal scheme is not comparable to the current appeal. Notably, the size of the gap to be filled at the Bramley site and its relationship to adjacent built form was significantly different to the scheme before me. Additionally, the appeal was determined prior to the adoption of the LPP2 and Policy DM14, which indicates the Council's approach for determining what constitutes limited infilling.
15. Given my finding that the proposal would not result in 'limited infilling' it has not been necessary for me to consider whether the development is within the village of Churt.
16. I therefore conclude that the proposal would be inappropriate development, contrary to the provisions of the Framework. Accordingly, it is also contrary to Policy RE2 of the LPP1 and Policy DM14 of the LPP2.

Effect on openness

17. The Framework also sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belts being their openness and their permanence.
18. Openness has spatial as well as visual aspects. The appeal proposal would introduce up to two dwellings, along with associated paraphernalia on to a currently undeveloped site. It would therefore result in a harmful loss of

¹ R.(on the application of Tate) v Northumberland County Council v Susan Leffers-Smith

² Appeal Ref: APP/R3650/W/17/3174077 Mill Farm Cottage, Mill Farm, Bramley, Guildford GU5 0HW

openness to the Green Belt. The Framework establishes that any harm should be given substantial weight.

Character and Appearance

19. The appeal site is located to the south of Green Lane and within the SHNL and is defined as within an Area of Greater Landscape Value (AGLV).
20. The Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty within AONBs, which have the highest status of protection in relation to these issues. Additionally, Section 85 of the Countryside and Rights of Way Act 2000 (as amended)³ requires all relevant authorities to seek to further the purpose of conserving and enhancing the natural beauty of the AONB when performing their functions.
21. The Surrey Hills Management Plan (2020 – 2025) sets out that the SHNL is a diverse landscape characterised by areas of woodland, hills and valleys, traditional mixed farming, a patchwork of chalk grassland and heathland, sunken lanes, picturesque villages, and market towns.
22. Green Lane is a narrow road that for the most part is lined by dwellings to both sides. The dwellings vary in their precise scale and form, but mainly follow a linear arrangement, with dwellings largely set slightly back from the highway behind front gardens that frequently contain mature boundary vegetation. This provides the road with a strong verdant character.
23. The appeal site is largely enclosed by mature trees along its boundaries that limit views of the site, save for its frontage onto Green Lane where trees/vegetation have previously been removed. The appeal site is not a sizeable plot in the wider landscape. Furthermore, due to its significant enclosure by vegetation, including an area Tree Protection Order, the appeal site appears largely self-contained, as opposed to forming part of a wider landscape. Additionally, from my observations, other than being an undeveloped parcel of land, the appeal site displays few special qualities of the SHNL.
24. Where public views of the site are available, they are highly localised, predominantly along a short section of Green Lane to the front of the site. The proposed development would therefore be viewed primarily in the context of the adjacent residential development rather than the context of the countryside or wider SHNL.
25. Despite not being limited infill development in the context of Green Belt policies, the proposal would be situated amongst a ribbon of residential development along the lane. Details with regard to the design, size and location of the dwellings and their specific layout on the site would be for consideration under the TDC. Still, the proposal would change the character of the undeveloped site. Nonetheless, I find that the size of the site is sufficient to enable two dwellings to be introduced that would be capable of maintaining the predominantly linear layout of development along Green Lane, whilst also providing suitable amenity space and separation distances from neighbouring dwellings. Additionally, due to the scale of the site and proposal, together with its rather contained nature and relationship with surrounding development, a

³ As amended by the Levelling Up and Regeneration Act 2023

layout could come forward that would not appear to encroach into the countryside.

26. It is currently unclear as to the extent of vegetation that would be lost to the development. Still the loss of front boundary vegetation to facilitate vehicular access would be likely to have a highly localised impact, while boundary vegetation along Green Lane is already frequently punctured by vehicular accesses. The appellant has also indicated a willingness to address any loss of vegetation via landscape mitigation measures at TDC stage. As such, whilst this is a matter that would require further consideration at any TDC stage, in principle, I am satisfied that a scheme could come forward that could respect the overall landscape setting.
27. In respect of this main issue, I therefore consider that there is real prospect that the development of between one and two dwellings on the appeal site would not be harmful to the character and appearance of the SHNL or its scenic beauty, nor the AGLV. This is based on the site's specific characteristics in terms of its overall value to the SHNL, its prominence, and its relationship to existing built form. In principle, the special qualities of the SHNL would therefore be conserved.
28. Accordingly, I find that the proposal would comply with LPP1 Policy RE3 which requires that new development must respect and where appropriate enhance the distinctive character of the landscape in which it is located, including protecting and enhancing the character and qualities of the Surrey Hills AONB and AGLV. Likewise, I find the proposal to accord with Section 85 of the Countryside and Rights of Way Act 2000 (as amended) and the aims of the Framework in terms of conserving and enhancing the natural environment.

Other considerations

29. Paragraph 60 of the Framework sets out the objective of significantly boosting the supply of housing, an aim given further impetus in the recent WMS. Based on the information before me, there is a significant shortfall in housing land supply within Waverley, with the appellant indicating that the supply falls below 4 years. The appellant further argues that proposed changes to the standard methodology highlighted under the WMS and the consultation draft Framework will result in a further deficit and increased pressure to deliver housing across the authority area. While from the evidence before me the current projected growth for Churt (set out within the LPP1) has not been met through extant or implemented permissions. Nor is it addressed through any site allocations within the adopted development plan and there is currently no emerging Neighbourhood Plan for the area. These arguments have not been refuted by the Council.
30. Small windfall sites can make an important contribution to overall housing land supply, as is highlighted within the Framework and further emphasised in the consultation draft of the Framework. Additionally, I am mindful that, amongst other matters, LPP1 Policy SP2 seeks to allow limited levels of development in/around Churt, albeit recognises that villages not within SHNL or Green Belt offer more scope for growth. The proposal would assist in addressing the projected growth for Churt and would contribute to boosting the supply of housing where a 5-year housing land supply cannot be demonstrated. I attach moderate positive weight to these benefits.

31. The appeal scheme is also in a generally sustainable location with reasonable access to facilities and services. Additional socio-economic benefits would also arise from the delivery and subsequent occupation of the proposed dwellings, including providing potential support for local services. The appeal scheme though would involve a maximum of two dwellings, therefore such benefits would be limited.
32. The appellant also emphasises that the Government's policy intentions as expressed through the WMS and consultation draft Framework will necessitate increased housing growth in the Green Belt within Waverley. The WMS though emphasises that the intended route to address under performance in housing land supply or delivery of homes will maintain restrictions on the release of wider Green Belt land. The WMS also makes clear that it will take a strategic approach to start with by requiring local authorities to review their Green Belt boundaries where they cannot meet their identified housing, commercial or other development needs. As such, the indication is that it would remain possible for Green Belt land, such as that being considered in this case, to be released outside the plan-making process, but that such instances would remain where there are exceptional circumstances.
33. Notwithstanding that an updated Green Belt review may be required pending the outcome of proposed reforms to the Framework and the planning system, as part of the evidence base to the Council's adopted development plan, a review of the Green Belt has previously taken place. The Green Belt Review⁴ (GBR) identified that the village of Churt and its surroundings (including the appeal site), should continue to be washed over by Green Belt. This was on the basis that it was still found to contribute to the Green Belt's purposes and therefore should not be removed.
34. The GBR, however, did recommend amendments to the village development boundary for Churt to accommodate selected infill. The appeal site was included within one of the areas recommended to be incorporated into the village development boundary. Despite the recommendations of the GBR having previously been acknowledge as accepted by the Council⁵, they have not been taken forward through the adoption of the development plan.
35. Nevertheless, even if the development boundary for Churt had been amended in line with the suggestions of the GBR (to aid infill development), the proposed development would still need to be demonstrated to constitute limited infilling to comply with local and national policies in respect of development in the Green Belt.

Other Matters

36. The appeal site lies within the setting of the Grade II Listed Butts Barn. From the evidence before me and my observations on site, I find that the significance of the building lies in its age, historic associations with the area, and architectural value that articulates the agricultural heritage of the area. The open nature of the appeal site provides some pastoral context to the listed building. However, this is extremely limited due to the way that residential development has emerged around the listed building, the manner of

⁴ Comprising both Part 1 (Strategic Assessment of Green Belt Purposes) and Part 2 (Assessment of Areas of Search).

⁵ I.e. Paragraph 13.27 of the LPP1.

intervening vegetation, and that the listed building is no longer viewed as part of a wider agricultural setting. As such, I find that the appeal site's contribution to the significance of the listed building is rather negligible.

37. Due to the site and surrounding residential context, which includes dwellings of varying age and appearance, I find a scheme for up to two dwellings at the appeal site could come forward that would be capable of preserving or enhancing the significance of the listed building.

Green Belt Balance and Conclusion

38. The appeal scheme is inappropriate development in the terms set out in the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt and establishes that development should therefore not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.
39. I find that the matters that the appellant has put forward, including the proposal's contribution to housing supply, related socio-economic benefits, previous findings of the GBR, and the potential emerging reforms to national planning policy, do not clearly outweigh the harm to the Green Belt either individually or cumulatively. Accordingly, the very special circumstances that are needed to justify inappropriate development in the Green Belt have not been demonstrated.
40. The fact that the Council cannot demonstrate a 5-year housing land supply triggers the circumstances in paragraph 11 d) of the Framework. However, in this case the application of policies in the Framework that protect the Green Belt provide a clear reason for refusing the proposed development in accordance with paragraph 11 d)(i). As such, the presumption in favour of sustainable development does not apply.
41. The proposal would conflict with the development plan when taken as a whole and material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

Lewis Condé
INSPECTOR