
Appeal Decision

Site visit made on 16 October 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2024

Appeal Ref: APP/C3620/W/24/3336910

Field Parcel 6381, Norwood Hill Road, Charlwood, Surrey RH6 0EB

- 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 Steve Waller against the decision of Mole Valley District Council.
 - The application Ref is MO/2023/1444/PLA.
 - The development proposed is Creation of 1 No. single storey dwelling; following the demolition of existing stable building, non-agricultural storage buildings and tidying up site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form as neither party has provided written confirmation that a revised description has been agreed.
3. During the course of the appeal the Council advised that they adopted the Mole Valley Local Plan 2020-2039 (MVLN) on the 15 October 2024. This Local Plan replaces the Mole Valley Local Plan October 2000 and The Mole Valley Local Development Framework Core Strategy October 2009. In light of this, parties were given an opportunity to provide comments in relation to their cases and the adoption of the MVLN and I have taken these into account. In light of the MVLN now forming the adopted development plan for the area, I have considered the proposal against the relevant policies in this plan.

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 on the openness of the Green Belt,
 - the effect on the character and appearance of the area,
 - the effect of the proposal on protected species, and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

5. The appeal site is adjoined by open fields and Norwood Hill Road. The wider area is rural in character and appearance and lies within the Metropolitan Green Belt.
6. The appeal site contains a number of small structures including three in use as stables at the time of my site visit and is screened from the road by mature boundary planting.

Whether inappropriate development

7. MVLP Policy EN1 states that the Green Belt will be protected against inappropriate development and that inappropriate development will not be permitted in the Green Belt unless very special circumstances are demonstrated which outweigh the potential harm, including harm to openness of the Green Belt. This closely reflects paragraphs 152 and 153 of the Framework.
8. MVLP Policy EN1 further states that the following form of development is an exception to the definition of inappropriate development and will be permitted where they comply with other policies in the plan: Limited infilling or redevelopment of previously developed land where the new development would not have a greater impact on the openness of the Green Belt than the existing development. This closely reflects paragraph 154 g) of the Framework.
9. While the proposal represents the redevelopment of existing structures, the evidence before me does not demonstrate that all of these structures and the whole of the site represent previously developed land. While the three structures identified on the aerial photo on page 1 of the Design and Access Statement have been used as stables and were in use as stables at the time of my site visit, I am not convinced that they are permanent structures simply by virtue of their age. From my site visit, there was little evidence of any groundworks or foundations to the stables that are constructed from panels and sheeting that could be quickly and easily moved or dismantled. In light of this, and in the absence of any other compelling evidence, I do not consider that these are permanent structures.
10. In relation to the other structures and use of the adjacent land, I have limited evidence before me to demonstrate that these are not used for agriculture alongside the keeping of horses. Furthermore, at my site visit I noticed that the land in the appellant's ownership was also being used for the keeping of turkeys and goats and that there was little evidence clearly demonstrating any non-agricultural activities, such as commercial storage, taking place on the appeal site itself.
11. As a result of the structures not being permanent and given my finding that not all of the site is used for the keeping of horses or other non-agricultural uses, I find that the appeal site as a whole does not meet the definition of previously developed land as contained within Annex 2: Glossary to the Framework.
12. For these reasons, the proposal does not comply with paragraph 154 g) of the Framework or MVLP Policy EN1 and the proposal is inappropriate development in the Green Belt.

Openness

13. Paragraph 142 of the Framework states that the essential characteristics of Green Belts are their openness and their permanence. The Planning Practice Guidance explains that openness can include spatial and visual impacts, as well as the degree of activity likely to be generated by the development.
14. The dwelling would be a solid, man-made feature. Although it would replace a number of smaller light-weight structures that comprise a greater footprint of development than the proposed dwelling, the proposed dwelling would be taller, permanent, and more solid in appearance.
15. In light of this, given the limited height of the existing structures and in the absence of volume calculations of the existing and proposed structures, I cannot be sure that the existing structures comprise a greater volume of development than the proposed dwelling and would have a lesser spatial effect on openness.
16. Even if the proposal were to be of a lesser volume and have a lesser spatial effect on openness, from within the site, and by reason of the solid permanent construction of the dwelling in a single mass and its considerably higher ridge height in comparison to the structures to be removed, the proposal would have a greater visual effect on openness. As a result, and although the structures to be replaced are spread around the site, I find no benefit from the consolidation of the built form into a single building with regard to the effect on visual openness. Given the above, the openness of the Green Belt would be reduced.
17. I acknowledge the presence of other paraphernalia within the site that has a visual effect on the openness of the Green Belt. However, this effect is minimal and would be offset by paraphernalia associated with the residential use of the site such as tables and chairs, play equipment and other items that could not be controlled through the imposition of conditions to remove permitted development rights. In relation to this I see no reason why a two-bedroom property would not be suitable for a small family.
18. In light of the above, the proposal would have a moderate effect on the openness of the Green Belt, a matter to which I am required to give substantial weight.

Character and appearance of the area

19. The appeal site comprises an area of open land of agricultural appearance with open fields surrounding the site and on approach. Despite the existing structures and paraphernalia, it retains a rural countryside appearance and character due to its generally open and verdant nature with planting to its boundaries. The character and appearance of the appeal site is not uncommon for a countryside location.
20. The proposed dwelling would be constructed within a field that is currently open and devoid of significant permanent built form. The dwelling combined with its associated activity, domestic paraphernalia and outdoor space would undermine the sites' role in aiding the wider open rural appearance of the area and would erode the landscape character. As a result, the proposal would be at odds with and harm the rural character of the site and wider area and fail to make a positive contribution to the local character.

21. I acknowledge that the proposal would provide an opportunity to tidy the site, but I see no reason why this could not occur without the development. Furthermore, as I have found above, any benefit from the removal of paraphernalia at the site would be offset by the introduction of paraphernalia associated with the proposed dwelling.
22. Although views of the site are restricted by planting to Norwood Hill Road, the proposal would be visible from within the site, from adjoining fields and from the access.
23. In conclusion, I find that the proposal would harm the character and appearance of the area. As such it is contrary to MVLP Policies EN4 and EN8. Amongst other things, these seek to ensure that all new development makes a positive contribution to its local character, take opportunities to improve the quality of the landscape and townscape, complement the character of the area, encourage developments, where appropriate, that are sensitive to their landscape and reinforce the scenic quality and distinctiveness of the landscape.

Protected species

24. The planning application was accompanied by a Preliminary Ecological Appraisal by Sylvatica Ecology Ltd (September 2023). The report recommends that further species-specific surveys are required for reptiles. The report recommends that the further surveys are carried out due to the presence of suitable vegetation on the appeal site resulting in the potential for the presence of grass snakes and slow worms. I have no evidence before me to confirm that additional surveys were carried out.
25. In the absence of the surveys recommended by the appellant's ecologist, and in the light of the strict protection afforded to some reptile species, it is not possible for me to determine with any certainty any impact on reptiles. Therefore, and given the open verdant nature of much of the appeal site, the potential for protected species being present or adversely affected by the development cannot be ruled out.
26. In the absence of an appropriate survey, the imposition of conditions to require mitigation would not be appropriate as there can be no certainty that the mitigation would acceptably address any harm. As it has not been adequately shown that there would be no harm in relation to this issue, then the necessary survey should be undertaken before any planning permissions are granted.
27. I acknowledge that there is no dispute between the main parties that conditions could be imposed to ensure no harm to landscaping, breeding birds, bats, hedgehogs and great crested newts, but this does not address the potential harm to reptiles.
28. For the reasons outlined above, I cannot rule out potentially significant harm to protected species on the site. As such, the proposal would not accord with the provisions of MVLP Policy EN9. Amongst other things, this ensures that where development proposals are likely to affect natural assets, planning applications will be required to include an assessment of the impact of their proposals on protected species and habitats, and include measures to retain, protect and enhance significant habitats.

Other considerations

29. The Framework makes it clear that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
30. Although the Council is now able to demonstrate a five-year supply of deliverable housing sites by virtue of very recent adoption of the MVLP, the proposal would make a contribution, albeit small, to the supply of housing in the area and make an efficient use of land that can be argued to be underutilised. There would also be some social and economic benefits associated with the proposal with regard to energy efficiency and construction jobs and spend, however, given the quantum of development and existing use of the site, these benefits would be limited.
31. I have had regard to the provision of adequate parking, provision of landscaping, lack of harm to highway safety, trees, and the living conditions of nearby occupiers. However, these are clear requirements of local and national planning policies and as such I give them very limited weight in my consideration.
32. I have found above that although the proposal provides an opportunity to tidy the site, this could happen without the development. Furthermore, I have found that the removal of existing paraphernalia would be offset by the introduction of residential paraphernalia. As such, this does not weigh in favour of the proposal.
33. I have also found above that I have not been provided with sufficient evidence to conclude that the site benefits from any lawful commercial activity. As a result, the cessation of any such use does not weigh in favour of the proposal.
34. The lack of objections to the application from neighbouring occupiers is neutral in my consideration.
35. I have had regard to the appellants reference to another planning decision¹ for the demolition of an existing non-agricultural building and erection of a dwelling of a very similar appearance at Coomers Manor. However, I do not have all of the information in relation to this application and note that the Council considered that proposal to represent previously developed land in contrast to the appeal before me. As a result, I cannot be sure that the proposals are directly comparable and, in any case, I have to consider the current appeal on its merits.

Whether 'very special circumstances' exist and Planning Balance

36. Paragraph 142 of the Framework makes it clear that the Government attaches great importance to Green Belts. The proposal would comprise inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt. Paragraph 152 of the Framework makes it clear that inappropriate development should not be approved except in very special circumstances. There would be harm to the openness of the Green Belt, in that it would be reduced. There would also be harm to the character and appearance of the area and to protected species.

¹ MO/2022/1908

37. Balanced against this is that the proposal would provide a dwelling which would contribute towards the supply and mix of housing and make an efficient use of land that can be argued to be underutilised. The proposal would also result in some limited social and economic benefits associated with an additional energy efficient dwelling and cause no harm in relation to other matters. However, given the scale and nature of the development, the benefits would be limited.
38. In accordance with the Framework, substantial weight is attached to any harm to the Green Belt. I consider that the harm I have found to the Green Belt would not be clearly outweighed by the other considerations outlined above. Consequently, the very special circumstances required to justify the proposed development do not exist. As such, the proposal does not accord with MVLP Policy EN1, or Green Belt policies in the Framework.
39. I have concluded that the proposal constitutes inappropriate development in the Green Belt, and that it would have significant impacts on its openness. Therefore, the application of policies in the Framework which protect Green Belts provide a clear reason for dismissing the appeal. In light of this, and even in light of the absence of up-to-date Housing Delivery Test figures, the proposal does not benefit from a presumption in favour of sustainable development by virtue of paragraph 11 d) i and footnote 7 of the Framework.

Conclusion

40. Overall, for the reasons given above, the proposal conflicts with the development plan taken as a whole. There are no other considerations, including the Framework, that indicate that a decision should be made other than in accordance with the development plan. The appeal is dismissed.

C Rose

INSPECTOR