



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: 8 November 2024

Appeal Ref: APP/C3620/W/23/3332982

Home Farm, Coldharbour Lane, Dorking, Surrey RH4 3JG

- 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 Aaron Gotto against the decision of Mole Valley District Council.
 - The application Ref is M0/2023/0806/PLA.
 - The development is Proposed change of use of one redundant agricultural barn to two semi-detached residential dwelling units (C3) and one studio/workshop (Use Class B1) to a single residential unit (C3).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Aaron Gotto against the decision of Mole Valley District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. 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.
4. During the course of the appeal the Council advised that they adopted the Mole Valley Local Plan 2020-2039 (MVLP) 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 MVLP and I have taken these into account. In light of the MVLP now forming the adopted development plan for the area, I have considered the proposal against the relevant policies in this plan.
5. Subsequent to the decision of the Council on the planning application, Areas of Outstanding Natural Beauty (AONB) became National Landscapes (NL). Therefore, in relation to this appeal, reference to the National Landscape refers to the Area of Outstanding Natural Beauty as referred to by the main parties.
6. The appeal is accompanied by the submission of a Habitat Suitability Index and Non-Licensed Method Statement for Great Crested Newts dated 20 October 2023 by aLyne ecology (Ecology Report), a Survey Report Relating to Agricultural Barn by vkhp-consulting (Survey Report) and an Agricultural Viability Statement dated 11 October 2023 by Batcheller Monkhouse. These

reports relate to the fourth and fifth reasons for refusal. The submission is also accompanied by a Lighting Assessment dated 10 November 2023 by Tetra Tech in relation to the first, second and third reasons for refusal. Although the reports have not been subject to formal public consultation, the Council has commented on them as part of this appeal. In light of this, and given my findings below, I am satisfied that no party would be prejudiced by my acceptance of the information. Therefore, having regard to the principles of Holborn¹, acceptance of the further information would not be procedurally unfair and as a result I have considered it in determining this appeal.

7. The main and interested parties refer to a concurrent planning application². However, as this forms part of a separate planning application, and is not in the appellant's ownership, it does not form part of the appeal before me.

Background and Main Issues

8. As a result of the submission and contents of the Ecology Report and Survey Report, the Council has advised that, subject to conditions, reasons for refusal numbers 4 and 5 on the Notice of Decision have been overcome. I have no reason to disagree and as a result my decision will focus on the remaining reasons for refusal.
9. As such, 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 openness of the Green Belt and the purposes of including land within the Green Belt;
 - the effect of the proposal on the character and appearance of the area, having regard to the site's location within the Surrey Hills National Landscape; and,
 - whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development

10. 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 the openness of the Green Belt and the purposes of including land within it. This closely reflects paragraphs 152 and 153 of the Framework.
11. 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: The re-use of existing buildings which are of permanent and substantial construction, provided the

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

² MO/2023/0731

physical changes and associated uses and activity would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. This closely reflects paragraph 155 d) of the Framework.

12. Alongside reference to paragraph 155 d) of the Framework, the Appellant's Statement of Case references compliance with paragraph 154 c). However, as the proposal also comprises the re-use of the building for residential purposes alongside external alterations, I find that the proposal falls to be considered against paragraph 155 d) of the Framework.
13. With regard to this, and as a result of the Survey Report, it is now common ground between the parties that the appeal building meets the criterion under paragraph 155 d) of the Framework which allows for the re-use of buildings provided that they are of permanent and substantial construction.
14. As a result, I find that the proposal would not constitute inappropriate development and would not be contrary to paragraph 155 d) of the Framework and MVLP Policy EN1 provided it would preserve the openness of the Green Belt and does not conflict with the purposes of including land within the Green Belt.

Openness and Purposes

15. Paragraph 142 of the Framework states that the essential characteristics of Green Belts are their openness and their permanence. The Planning Practice Guidance (PPG) explains that openness can include spatial and visual impacts, as well as the degree of activity likely to be generated by the development.
16. The appeal site comprises a building in commercial use and a redundant larger agricultural barn. The commercial building has a number of glazed openings and sits opposite the agricultural barn that is taller with large openings and timber cladding typical of many agricultural barns. The buildings are accessed by a track, share a hardsurfaced area to their frontage with the site also comprising a number of containers and a mobile home.
17. While I note the Appellant's reference to a 2013 aerial photo showing the presence of containers on the site at that time, for the avoidance of doubt, it is not the role of an Inspector dealing with a section 78 appeal to determine the lawful use of existing land, development or structures. Such matters can only be determined by a certificate of lawfulness.
18. The proposal would not increase the size of the appeal buildings. New windows and doors would be installed in the side and rear elevations of the commercial building. New windows and doors would be installed in all sides of the agricultural building that would be clad to mimic the appearance of the commercial unit and would be divided into two dwellings each over two floors. Parking areas are proposed close to the side of each dwelling off the retained hardsurfaced area between the buildings that would also benefit from a new planted area. Formal parking and garden areas are proposed to serve each dwelling. Four of the parking spaces would very roughly be in the position of 4 existing containers. I note reference to the use of roof gardens/sedum roofs by the appellant, but this is not reflected on the plans before me.
19. The plans show the provision of patios and three sizable garden areas enclosed by hedging with access from each of the dwellings. There is nothing to prevent these areas from being used and the outdoor areas would likely be used for sitting out and leisure activities with associated domestic paraphernalia.

20. In relation to this the garden areas and likely associated domestic paraphernalia that would be introduced would intensify the use of these areas. Therefore, the newly created gardens and parking areas would result in spatial and visual harm to the openness of the Green Belt. While the construction of outbuildings could be controlled through the removal of permitted development rights, other paraphernalia such as chairs, tables, swings and trampolines could not. The introduction of domestic paraphernalia would result in additional clutter being introduced to the site, which would have an adverse effect on the visual openness of the Green Belt.
21. During my site visit, by virtue of the openings in its front elevation, cladding with gaps to the rear elevation and open internal aspect, it was evident that the agricultural building is visually a more lightweight and open structure compared to the commercial unit. The replacement of these openings and gaps and loss of the open internal aspect with a solid built residential form clearly comprising two floors would give the building a heightened visual presence. Alongside the garden areas, this would give the site a more urban and domestic appearance, causing a loss of openness in visual terms.
22. I have had regard to the appellant's case that any harm to openness needs to be offset against the tidying up of the site through the removal of the six containers and mobile home. In this regard, I note that four of the containers are placed on grassed areas and are to be replaced by hardsurfaced car parking areas. While I appreciate that cars may not be parked in these spaces at all times, by reason of their presence and the introduction of further hardsurfacing, I find any benefit to openness would be minimal. Furthermore, in the absence of evidence other than the aerial photo from 2013 demonstrating that the containers and mobile home are lawful and given that they could be removed at any time in isolation of the proposal, their removal would not compensate for the projection of the domestic curtilages into the Green Belt. Furthermore, as containers within a commercial and agricultural context are not uncommon in the countryside, I give limited weight to any visual benefit from their removal and tidying up of the site.
23. The appellant refers to the number and form of traffic movements associated with the commercial building being in excess of 10 per day including HGV's. However, even if traffic movements associated with an existing use in the Green Belt can be considered to harm openness, I am also mindful that vehicles used in association with dwellings would be more likely to be parked on site for longer periods compared to the more transient level of activity associated with the commercial business. Therefore overall, any effect on openness would be neutral.
24. I note that the Council raise additional concerns with regard to lighting, but given the contents of the Lighting Assessment, I do not find any additional harm from lighting and acknowledge that the proposal could result in slightly reduced levels of light spill.
25. I accept that views of the site would be limited to more immediate views from within the site or from the adjacent dwelling to the south limiting any harm.
26. Whilst I recognise that the Framework supports the re-use of buildings and therefore there is an expectation that some change will be required, the Framework nevertheless requires that the re-use of buildings preserve the openness of the Green Belt. Therefore, even though there would be restricted

views of the site, potential for less light spillage and some small benefit from the removal of the containers and mobile home, the benefits would be limited and would not outweigh the adverse harm to the openness of the Green Belt identified above. Therefore, and although any harm would only be modest, the proposal would fail to preserve the openness of the Green Belt. Thus, it would not meet the exception set out under criterion d) of paragraph 155 of the Framework.

27. Paragraph 143 of the Framework sets out that the Green Belt serves five purposes. Relevant to this appeal, is c) to assist in safeguarding the countryside from encroachment. In light of the more urban and domestic appearance of the development and the provision of sizable outdoor areas that would extend into the Green Belt, the proposal would prejudice this purpose.
28. Consequently, I find that the proposal would result in a slight adverse effect on the openness of the Green Belt and would harm the purposes of the Green Belt. As a result, the proposal does not meet the exception under paragraph 155 d) of the Framework and MVLP Policy EN1. Accordingly, it represents inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt. Furthermore, the proposal would harm the purposes of the Green Belt.

Character and Appearance

29. The NL is a landscape of national importance. The Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of the AONB's. This guidance is reflected in MVLP Policy EN8 that states that development proposals that fail to conserve and enhance the landscape and scenic beauty within the NL, their cultural significance and wildlife habitats will be refused. The Policy further states that regard must be had to the Surrey Hills Management Plan 2020-2025 (SHMP). The site also falls within an Area of Great Landscape Value (AGLV) within which Policy EN8 states that development proposals will be required to demonstrate they would not harm the distinctive character and scenic beauty.
30. I have found above that the proposal would unacceptably visually urbanise the area through the more domestic built form and provision of sizable garden areas and associated paraphernalia. In this regard, I note that the key pressure and threat to the NL identified in the SHMP is from housing development. I further note that Section 2.9 states that the cumulative effect of many, often small, developments reduce the landscape and scenic beauty justifying strict controls of development and that the conversion of farm buildings to other uses can often individually and collectively spoil the landscape.
31. While there is some urbanisation of the site at present through the commercial use, this would be extended beyond this building. Furthermore, as stated above, I give limited weight to any benefit from tidying the site given the limited evidence regarding the lawfulness of the containers and mobile home, given their partial replacement with parking areas, given that they could be removed at any time without the need for the proposed development and as the site is not untypical of commercial and agricultural sites in the countryside.
32. I acknowledge that the proposal would introduce boundary hedging, planting within the existing hardsurfaced area to the front of the buildings and a wild flower meadow with associated biodiversity enhancements. However, I find

that the proposal when considered as a whole, by reason of the greater urbanisation and domestication of the site, would fail to enhance the landscape and scenic beauty of the area.

33. It follows that I conclude that the proposal would have a harmful effect on the character and appearance of the area, having regard to the site's location within the Surrey Hills National Landscape. As such, the proposal is contrary to MVLP Policies EN4, EN8 and EN9 that, amongst other things, seek that all new development makes a positive contribution to its local character, conserve and enhance the landscape and scenic beauty within the NL, and not harm the distinctive character and scenic beauty of the AGLV. For the same reasons the proposal is contrary to paragraph 182 of the Framework that seeks to conserve and enhance the natural environment.

Other Considerations

34. 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.
35. Although the Council is now able to demonstrate a five-year supply of deliverable housing sites by virtue of the very recent adoption of the MVLP, the proposal would make a contribution, albeit small, to the supply of housing in the area. There would also be some social and economic benefits associated with the proposal with regard to energy efficiency, bringing redundant buildings back into use, and support to the local economy through construction and spend of occupiers. There would also be some small biodiversity enhancements. However, given the quantum of development and as I have not been provided with detailed evidence demonstrating that the buildings could not be put to use by others, these benefits would be limited.
36. I have found above that although the proposal provides an opportunity to tidy the site, there is no reason why this could not happen without the development. As such, I give this very limited weight.
37. My attention has been drawn to a number of other decisions by the Council³ where the conversion of buildings within the Green Belt have been granted. However, two are from a number of years ago and in the absence of full details of these proposals comprising plans and reports, I cannot be sure that they are directly comparable to the appeal proposal, and as such they carry limited weight. With regard to the application at Bakehouse Barn⁴, from the information provided this is not comparable to the appeal before me as the building was already partly in residential use with few external alterations proposed and as such already had an urban appearance and associated garden. Furthermore, I am required to consider the current appeal on its merits.
38. The appellant refers to a lack of harm in respect of issues including parking, access, trees and living conditions of nearby occupiers. However, a lack of harm is not a benefit, and these are neutral considerations in the planning balance.

³ Bury Hill Fisheries, MO/2014/1282 and MO/2012/1377/PLA

⁴ MO/2020/1344

39. I have had regard to paragraph 84 c) of the Framework supporting the re-use of redundant or dis-used buildings, but this also requires proposals to enhance its immediate setting and I have found above that the proposal would have a harmful visual effect. It would therefore fail to enhance its immediate setting. I have also had regard to paragraph 88 of the Framework, but in light of the residential nature of the proposal, I fail to see how it would aid the growth and expansion of rural businesses or diversify agricultural or other rural businesses.
40. The appellant raises concerns regarding the conduct of the Council during its consideration of the planning application. However, these are not matters which are for consideration in this appeal.

Whether 'very special circumstances' exist and Planning Balance

41. Paragraph 142 of the Framework makes it clear that the Government attaches great importance to Green Belts. The proposal would comprise inappropriate development, 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 and to the purposes of Green Belt through encroachment into the countryside. There would also be harm to the character and appearance of the area.
42. Balanced against this is that the proposal would provide three dwellings which would contribute towards the supply and mix of housing. The proposal would also result in some limited social, economic and environmental benefits associated with additional energy efficient dwellings, biodiversity improvements, and cause no harm in relation to other matters. However, given the scale and nature of the development, the benefits would be limited.
43. 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 Policy EN1 of the MVLP, or Green Belt policies in the Framework.
44. I have concluded that the proposal constitutes inappropriate development in the Green Belt, and that it would have an adverse impact on its visual 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

45. 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