



Appeal Decision

Site visit made on 25 November 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2024

Appeal Ref: APP/Y3615/W/24/3341709

South Cottage, Redhill Road, Cobham KT11 1EF

- 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 Jake, Mrs Jasmin, and Mr Kyle Johnson against the decision of Guildford Borough Council.
 - The application Ref is 24/P/00156.
 - The development proposed is described as the demolition of buildings, removal of hardstanding and the erection of two detached self build dwellinghouses (to be built to the plans or specifications decided by the occupants), with landscaping, parking, and access.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Guildford Borough Council against Mr Jake, Mrs Jasmin, and Mr Kyle Johnson. This application is the subject of a separate Decision.

Procedural Matters

3. During the process of the appeal, the appellant has submitted an updated statement of case (SoC), removing reference to a specific development; multiple unilateral undertakings (UUs); and an appeal decision¹ which has been issued since the submission of the appeal and refers to a Ministerial Written Statement (MWS) and the July 2024 Draft National Planning Policy Framework (the Draft Framework).
4. These submissions did not materially alter the proposed development and the Council has been given opportunity to comment on them. Accordingly, I have considered the updated SoC, recent appeal decision and the UU dated 22 May 2024 relating to financial contributions, and the UU dated 1 July 2024 relating to self-build and custom housing.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, including its effect on openness, having regard to the National Planning Policy Framework and any relevant development plan policies;

¹ APP/V1505/C/23/3314641 and associated appeal APP/V1505/W/23/3314643

- the effect of the proposal on the Thames Basin Heaths Special Protection Area; and
- if the development is inappropriate 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 the proposal would be inappropriate development in the Green Belt

6. The appeal site has historically been used commercially as a horticultural nursery, then later a cattery and animal shelter. There are a mix of mainly single storey buildings and areas of hardstanding across much of the site. It is located within the Green Belt and screened from the nearby area by the surroundings mature trees.
7. The proposal would remove all existing buildings and hardstanding, and replace them with 2 detached, 2-storey dwellings, as well as extend the garden provision for South Cottage.
8. Policy P2 of Guildford Borough Local Plan: Strategy and Sites 2015 - 2034 (LPSS) refers directly to the National Planning Policy Framework (the Framework) in terms of inappropriate development within the Green Belt.
9. Paragraph 154 of the Framework states that the construction of a new building is inappropriate in the Green Belt but sets out 7 exceptions to this. Although there are currently residential uses on the appeal site, that they are dwellings in their own right has not been evidenced so the proposal cannot be considered under the replacement dwelling exception.
10. Nevertheless, the main parties agree that the site constitutes previously development land and Paragraph 154 g) allows for the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. That the proposal should be assessed against this exception aligns with the evidence submitted, and the considerations of the Inspector who dealt with a previous appeal² on the site. There is nothing before me to conclude otherwise.
11. The existing buildings and structures on site are predominantly single storey and relatively small in size. This along with their scattered positioning across the site means spatially their impact is not excessive. In conjunction with the woodland setting, their visual impact is also limited, with the only views beyond the site's immediate boundaries restricted to glimpses across the paddock to the rear from a private driveway.
12. The proposed new dwellings, and associated parking and hardstanding would be located to one side of the appeal site, whilst the rest of the site would be divided into gardens, and the trees around the site would be maintained. It therefore could be considered that the proposal would have a consolidating effect in relation to the existing sprawl of development across the site, and the screening from the wider area kept intact.

² APP/Y3615/W/23/3323077

13. However, openness is a multi-faceted consideration, with both visual and spatial aspects and is not limited to development quantum or impact on long distance views.
14. The proposed 'consolidation' of development on the site is noted. However, this does not negate the visually more apparent form the development would take, due to each proposed dwelling being considerably larger in size and bulk than any one of the existing buildings or group of buildings. In conjunction with this, the linear positioning of the proposed dwellings within the space between South Cottage and its garage, would create a barrier across the site. This would constrain views through and over the appeal site and, in relation to plot B, physically enclose a part of the site which is currently reasonably open. Therefore, the proposal would have a more harmful effect, both visually and spatially, on the openness of the Green Belt than the existing development on the appeal site.
15. It is appreciated that a portion of the site would be used for residential garden and so could be considered an improvement to openness, especially when viewed across the paddock to the rear. However, the potential improvement in openness on one part of the site does not outweigh the detrimental visual and spatial impact the proposal would have on the openness of another part of the site. Nor does the size of the appeal site in comparison to the overall size of the Green Belt; that the use of the site would not be intensified; and the perceived functional link between the site and existing buildings to the east, including South Cottage.
16. Although the proposal would constitute the partial or complete redevelopment of previously developed land, for the reasons given above, it would have a greater impact on the openness of the Green Belt than the existing development.
17. Accordingly, the proposal would constitute inappropriate development as described by Paragraph 154 of the Framework. As set out in Paragraph 152 inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, a matter which I will return to below.

Thames Basin Heaths Special Protection Area

18. The appeal site falls within 5km of the Thames Basin Heaths Special Protection Area (SPA). Regulation 63 of the Conservation of Habitats and Species Regulations 2017 requires an appropriate assessment to ensure that the development would not adversely affect the integrity of the SPA.
19. The SPA qualifies for such protection as it supports populations of rare bird species, which are susceptible to predation and disturbance. The proposed 2 dwellings could contribute to an increased population in combination with other plans, projects, and developments in the area. Given the proximity of the development to the SPA, it is likely that the proposal's contribution to the increase in population could lead to an increase in visitor and recreational pressure within the SPA. As the qualifying features of the SPA could be susceptible and vulnerable to such use, it cannot be concluded that the development would not adversely affect the integrity of the protected sites in combination with other projects.

20. The Council has a long-standing strategy³ which sets out appropriate contributions towards Suitable Alternative Natural Greenspaces and Strategic Access Management and Monitoring to mitigate any harm to the SPA, and that should be secured via obligation. During the application process Natural England has confirmed such mitigation acceptable, and the Appellant does not disagree with the position.
21. Consequently, based on the evidence before me, I am satisfied that such contributions would be necessary to make the development acceptable in planning terms; directly relate to the development; and are fairly and reasonably related in scale and kind to the development. It follows, therefore, that the effects of the proposal on the SPA could be sufficiently mitigated by an appropriately drafted UU so that no harm to its integrity would result if planning permission were to be granted.
22. A UU has been submitted and were it executable it would ensure the proposal did not harm the SPA, in compliance with LPSS Policy P5, Guildford Borough Local Plan Development Management Policies Policy P6, and South East Plan Policy NRM6 insofar as they seek to protect priority species and habitats.

Other considerations

23. Although the Council can demonstrate a five-year housing land supply, the Framework seeks to boost the supply of homes and supports the use of small and medium sized sites. Therefore, taking account of the Council's position that the existing residential accommodation on the appeal site is ancillary to South Cottage, that the proposal would provide 2 additional dwellings on a small site so constitute a limited benefit.
24. The appellant has submitted a which seeks to secure the 2 new dwellings for self-build and custom housebuilding (SBCH). To support this position, they have drawn my attention to an appeal in Holyport⁴, and one in Malmesbury⁵.
25. Within the Holyport appeal the Inspector found the short fall in SBCH outweighed the identified harm to the Green Belt, and in Malmesbury that SBCH is supported nationally and given substantial weight. This is acknowledged and I find the provision of 2 dwellings for SBCH would constitutes a benefit. However, the Holyport and Malmesbury appeals are both in outline so have reserved matters to be considered latterly, whereas the scheme before me must be considered in full. Also, both are in different local planning authority areas where it has not been shown the relevant development plans deal with SBCH similarly to Guildford.
26. LPSS Policy H1 seeks to support the provision of SBCH, amongst other things. It sets out that SBCH will be supported if the proposed development has no adverse effect on the local character, is encouraged on smaller residential development sites, and must respond to the sizes identified on the register.
27. The Council have conceded the proposal would not harm the local character and the appeal site would constitute a small residential development site. However, there is nothing before me to suggest that the sizes of the dwellings proposed respond to sizes identified on the register, and as the proposal is in

³ Thames Basin Heaths Special Protection Area Avoidance Strategy 2017

⁴ APP/T0355/W/22/3309281 and by association APP/T0355/W/23/3314990

⁵ APP/Y3940/W/23/3317252

full those sizes could not be altered at a later date. Therefore, it cannot be shown the proposal would comply with LPSS Policy H1.

28. As such although the Council may well have a shortfall in SBCH provision, which taking the appellant's position could be considered significant, and the proposal could provide 2 SBCH plots, it fails to comply with LPSS Policy H1 and so I can only give the provision of SBCH limited weight in this instance.
29. Turning to the application of the Draft Framework and the WMS as outlined within submitted recent planning appeal⁶. It is agreed that the WMS can be material when deciding appeal. However, the Draft Framework holds less weight than the current adopted Framework as it is not clear if it will be published in its current form or will be revised following the outcome of the public consultation. Therefore, in this instance, when relating to the rewording of the test for the partial or complete redevelopment of previously developed land in the Green Belt does not outweigh that of the existing Frameworks paragraph 154 g).
30. The WMS does indicate, however, how applications for development on land described as 'grey belt' will be dealt with in the future and therefore it is likely this concept will be adopted within the Draft Framework. Nevertheless, it is important to note that the proposed changes to the Framework to incorporate this, specifically in relation to housing not being inappropriate on 'grey belt', requires the site to be in a sustainable location and only applies when the local planning authority cannot demonstrate a 5-year housing land supply⁷, which is not the case for Guildford. Therefore, although the WMS carries weight in this instance it is only limited.
31. That the appeal site is not visually attractive in its current form, and the proposal could improve the character and appearance of the site would also constitute a limited benefit. As would the social and economic benefits 2 permanent dwellings would have on the area, the potential reduced impact such a use would have on neighbouring residents over the commercial use of the site, and the sustainable nature of buildings constructed with modern methods.
32. That the proposal could ensure a lack of harm in relation to the SPA, the living conditions of future occupants, the biodiversity of the site or immediate area, highway safety, and trees protected by Tree Preservation Order would be, by definition, incapable of weighing for or against the proposal.

Green Belt Balance

33. The proposal would amount to inappropriate development as set out in the Framework, which is, by definition, harmful to the Green Belt. Paragraph 153 of the Framework requires substantial weight to be given to any such harm. Accordingly, very special circumstances need to clearly outweigh the substantial weight given to that harm, and any other harm resulting from the proposal.
34. In this instance the other considerations do not clearly outweigh the totality of harm to the Green Belt, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the

⁶ As referred to in paragraph 3 of this letter

⁷ Proposed paragraph 152 b) of the Draft National Planning Policy Framework – July 2024

development do not exist. The proposal would not therefore comply with the Framework and would conflict with LPSS Policy P2.

Other Matters

35. The appellant has also drawn my attention to 3 other appeals⁸. I have taken account of these in relation to what is considered a temporary building and differences in how developed areas have been assessed but they do not alter my findings.
36. That the Council are concerned with precedence in relation to what should be considered a very special circumstance also does not alter my findings.

Conclusion

37. For the reasons given above, the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR

⁸ APP/B1930/W/21/3267870; APP/Y3615/W/23/3323077; and APP/T0355/W/22/3313566