



Appeal Decision

Site visit made on 15 January 2025

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2025

Appeal Ref: APP/C3620/W/24/3350008

Horsielands Farm, Church Lane, Newdigate, Surrey RH5 5DP

- 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 Andrew Farquhar of Guildoak Limited against the decision of Mole Valley District Council.
 - The application Ref is MO/2024/0571/PLA
 - The development proposed is demolition of the existing buildings and development of three detached houses with associated parking, access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted biodiversity information during the appeal. This does not change the scheme under consideration but provides detail in response to the Council's reasons for refusal. Furthermore, the Council had the opportunity to respond to these documents during the appeal process. For the reasons above, and in the circumstances of this case, the parties would not be prejudiced if I were to consider these documents, and I have taken them into account in this decision.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2024 (the Framework) and any relevant development plan policies.
 - The effect of the proposal on the openness of the Green Belt.
 - The effect of the proposed development on the character and appearance of the area including with regard to Simons, a Grade II listed building and the Cartshed.
 - Biodiversity
 - 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

Whether inappropriate development

4. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that inappropriate development is harmful to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate, and thus should be approved only if very special circumstances exist, unless they come within one of the categories in the closed list of exceptions in the Framework and this is broadly echoed by Policy EN1 of the Mole Valley Local Plan 2020-2039 (2024) (LP)
5. Paragraph 154g) of the Framework provides an exception for limited infilling or the partial or complete redevelopment of previously developed land..., whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt. The definition of previously developed land is included in the glossary and specifically excludes land that is or was last occupied by agricultural buildings. There is no dispute that the land is occupied by agricultural buildings and I am not provided with alternative detailed evidence that the site would fall under the Framework's definition of previously developed land. Therefore, the exception under paragraph 154g) would not be relevant.
6. Additionally, paragraph 154e) provides an exception for limited infilling in villages. Newdigate is defined as a village in the development plan albeit the appeal site is outside the settlement boundary. Nevertheless, this is not determinative in itself and I have also considered the situation on the ground. This is in common with the appeals at Land Adjoining Pondview, Sturt Green (APP/T0355/W/22/3309281 and APP/T0355/W/23/3314990) and 82 Oaklands Lane (APP/B1930/W/22/3300239) which I am referred to, and the case law that has been brought to my attention in *Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195*.
7. Church Road extends from Village Street where there is a concentration of development including shops and services for Newdigate. However, approaching the appeal site, Church Road narrows, pavements terminate and it is surrounded on both sides by open fields, which provide clear separation between Simons and the appeal site and the village. Therefore, the appeal site is clearly separate from the village of Newdigate.
8. Consequently, for the reasons described above, the appeal scheme is not limited infilling in a village. It is therefore inappropriate development in terms of the Framework and Policy EN1 of the LP.

Openness

9. Openness has both spatial and visual qualities. There are a number of existing buildings on the site which would be demolished. These include barns with fully or partially open sides as well as enclosed buildings and the structures closest to Church Road are modest single storey buildings. Furthermore, they are buildings for agriculture which are characteristic of the traditional agricultural use of the land and are therefore in keeping with their setting. Overall, the buildings to be demolished have a footprint of 1182sqm, and volume of 3957cu.m.
10. The proposed dwellings would each have a footprint of around 250sqm, which would be around 750sqm in total, and a total combined volume of 3581cu.m. and based on the evidence before me it is likely that there would be fewer vehicle

movements to and from the site than the existing use. Nonetheless, the proposal would introduce three generous, two storey dwellings and the whole site would change to a clearly domestic urbanising use. Furthermore, the development proposes a large house and detached garage in a highly visible position along Church Road with the other sizeable properties clearly visible from Simons and Horsielands Farm and the surrounding area.

11. The development proposed would be a domestic, more visually prominent use to this site. Although would be an overall reduction in built form and hardstanding across the site, taking all the above into account, overall, there would be harm to openness.
12. Consequently, for the reasons above, the proposed development would be harmful to the openness of the Green Belt. As such, it would be contrary to the Framework in this regard.

Character and Appearance

13. The appeal site is generally surrounded by open land, with nearby buildings mainly having an existing or historic connection to the farm use. The appeal site has a number of barns and buildings connected by areas of hardstanding. The buildings themselves include enclosed structures, but also fully or partially open sided barns some of which are somewhat run down with a mix of traditional and more modern buildings. Their character and appearance are typical of this agricultural use and their countryside character makes a positive contribution to this rural location.
14. Adjacent to the site is Simons, a Grade II listed building which was originally the farmhouse for the appeal site farmstead. Its significance derives from features including its historic form, materials and appearance indicative of its traditional farmhouse use. The original farmland has been subdivided and Simons and the appeal site are now in separate use. Furthermore, in the farmyard the majority of the buildings have been redeveloped and there is little of the original farmstead built form which remains. Nevertheless, there is an historic functional link between the use of this land for agriculture and the listed farmhouse. As such, the appeal site is part of the surroundings in which the heritage asset is experienced. There are no physical alterations to external or internal fabric of the listed building itself and the proposed development is not attached, however the farmyard character and appearance of the appeal site makes a positive contribution to the setting of the Grade II listed building.
15. One of the buildings on the appeal site is a cartshed and granary or hay store. It appears to date from the 1780s and its significance derives from features including its historic fabric, use and form. It is not statutorily listed, however these historic features result in the cartshed having a limited degree of heritage significance meriting consideration in planning decisions. As such I have considered this as a non designated heritage asset.
16. The proposed development would remove all the existing buildings on the site and would introduce three large dwellings along with access and parking, residential gardens and domestic paraphernalia to the site. This would be a clearly domestic, developed appearance to the whole site and would totally erode the visual and practical connection with the farm use. In addition, the dwelling on plot 1 would be sited close to the road, and although its ridge height would be similar to the adjoining property at Simons, the scale and bulk of the proposed dwelling would

be greater. As such the proposed residential development would be highly prominent.

17. The proposed development would therefore sever the traditional functional link between the appeal site and Simons. Furthermore, for the reasons set out above the proposed dwelling on plot 1 would be dominant due to its scale and siting, which would harmfully undermine the prominence of the listed building in public views.
18. The appeal scheme proposes the removal of the cartshed which would result in the total loss of this non designated heritage asset. A condition is recommended which would record, dismantle and store or re-use this building. However, given the limited detail about where or how it would be re-used, if at all, this would not overcome the harm from its loss as a result of the appeal scheme.
19. The front of the site is shown to be soft landscaped with two trees, hay meadow and mixed native species planting. This landscaping would appear as part of the residential character in this context. Even if more dense landscaping was proposed it would be unlikely to fully screen the two storey buildings and views would be likely through the access points. As such, the harm identified above would be experienced.
20. Consequently, the proposed development would be harmful to the character and appearance of the area including with regard to the setting of Simons, a Grade II listed building and the Cartshed, a non designated heritage asset. Therefore, it would be contrary to Policy EN4 and EN6 of the LP. Together these seek high quality design that makes a positive contribution to local character, and require that proposals for the loss of a non-designated heritage asset will be considered on the basis of its significance set against the scale of the loss.
21. Paragraph 215 of the Framework and Policy EN6 of the LP requires me to weigh this harm against the public benefits of the scheme. I will turn to this matter later in this decision.

Biodiversity

22. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
23. The habitats present on the site could support Great Crested Newt (GCN). There are ponds within 100m of the application site. If any of these are suitable for GCN then an offence would be likely and the Protected Species Walkover and Bat Assessment confirms that presence/absence surveys would be required. The appellant states that as the majority of the habitat surrounding these pond is low suitability, and all other ponds are unlikely to support GCN, this lowers the likelihood of these ponds supporting GCN. However, I am not satisfied that this establishes the absence of this protected species. Consequently, there is a reasonable likelihood that GCN are present at the site.
24. A reptile mitigation strategy has been produced which seeks to relocate any reptiles on the site to the surrounding habitats. Following habitat manipulation it also recommends a destructive search with any reptiles moved to retained habitat

on the site boundaries. However, the proposed plans show the redevelopment of the whole site, with minimal vegetation retained, with the area along the southern boundary as private garden areas. As such, based on the evidence before me, I am not satisfied that this mitigation is suitable.

25. With regard to bats the third emergence survey is stated to confirm the results of the previous surveys. On this basis, the presence or absence of these species has been established.
26. Nevertheless, with regard to GCN and reptiles I am not satisfied that protected species would not be harmed by the proposed development or the extent of any such harm. Furthermore, the use of the small sites metric for BNG is not suitable where a European protected species is present on the site.
27. Therefore, the proposed development would have a harmful effect on biodiversity. As such it would be contrary to Policy EN9 of the LP which states that development which has an adverse effect on species of principal importance will be refused.

Other Considerations

Fallback

28. Prior approval has been granted for the change of use of 5 of the buildings to flexible commercial use (MO/2023/0939), and the change of use of one building to 5 dwellings (MO/2023/0940). There is clearly an intention to provide a new use for this site. Consequently, if this appeal were dismissed, there is a real prospect that these developments would take place. As such the fallback position is an important consideration in this case and this broadly follows the caselaw in *Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314* which has been brought to my attention.
29. In common with the proposed development, the fallback position would result in the loss of the agricultural use of the site. The fallback position would also retain the extent of the hardstanding and would be likely to result in more car parking and movements to and from the site than the development proposed. However, it would also keep the nature and scale of the existing buildings with mainly low heights, separate smaller buildings and a modest visual effect. As such overall, the effects on openness would be similar.
30. The harm to the setting of the listed building as a result of the loss of the agricultural use would be similar in both the fallback and proposed schemes. However, in the fallback position the appearance and massing of the frontage buildings would not change and the dominance of the listed Simons would remain. In addition, the Cartshed would be reused in situ, and considering that the prior approval applications relate to a change of use I do not have detailed evidence before me that leads me to conclude that the historic fabric or form would not be retained. Therefore, the fallback would be less harmful to the setting of the Listed Building and the non-designated heritage asset. Consequently, the proposed development would be more harmful to the heritage assets than the fallback position. Furthermore, taking into account that the fallback position relates to changes of use, I am not satisfied that it would be more harmful to biodiversity. Whilst the fallback dwellings would be smaller, there is nothing to suggest that they would not provide adequate living conditions for future occupiers.

31. Overall, I conclude that the appeal scheme would be more harmful than the fallback and I attribute limited weight to the fallback position.

Other Considerations

32. The 2023 Housing Delivery Test results indicate that the delivery of housing was not substantially below the housing requirement over the previous three years. Furthermore, during the appeal process the LP has been adopted and the Council states that it has an up-to-date five-year supply including a 20% buffer. I am not provided with substantive evidence to dispute this position. Consequently, there is not a demonstrable unmet need for the type of development proposed in the context of paragraph 155 of the Framework.
33. The proposed development would develop a small site to provide the social and economic benefits associated with three new three bedroom dwellings. These are important matter. Nevertheless, taking all the above into account and given the scale of the development in this case, overall, these would be moderate benefits. The development would also provide hardstanding to the site access, however there is nothing before me to suggest that the existing access is inadequate for its purpose.

Heritage Balance

34. The Framework advises that heritage assets are irreplaceable and should be conserved in a manner appropriate to their significance and that any harm requires clear and convincing justification. In terms of the Framework the harm to the listed building would be less than substantial. Nevertheless, this is a matter of considerable weight and importance. Paragraph 215 of the Framework requires me to weigh this harm against the public benefits of the scheme.
35. The public benefits of this scheme would be moderate. On the other hand, having regard to my statutory duty I am required to have special regard to the desirability of preserving the setting of the Listed Building and I attribute considerable importance and weight to the harm identified in this regard. Accordingly taking all the above into account, the public benefits would not outweigh the harm to the setting of the listed building. As such it would be contrary to Policy EN6 of the LP which requires that less than substantial harm to a listed building will not be permitted unless the public benefits of the proposals outweigh the harm to the asset's significance

Green Belt Balance

36. I have concluded that the proposal would be inappropriate development in the Green Belt which is, by definition, harmful. There is also harm to the Green Belt due to the effect on openness. I have also found harm to character and appearance including heritage assets and biodiversity. 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 is clearly outweighed by other considerations.
37. On the other hand, the proposed development would result in the benefits associated with the provision of three new homes in these circumstances, along with the other benefits identified above. Taking all the above into account, together there would be moderate benefits. Whilst there is a realistic fallback scheme, this

does not justify the development proposed for the reasons set out above and the fallback scheme attracts limited weight.

38. Consequently, the other considerations outlined above do not, therefore, clearly outweigh the totality of the harm. As a result, the very special circumstances necessary to justify the development do not exist. As such, the proposed development would conflict with the Framework and policy EN1 of the LP.

Conclusion

39. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

H Miles

INSPECTOR