



Appeal Decision

Site visit made on 16 January 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 February 2025

Appeal Ref: APP/M3645/W/24/3352412

Coppice Wood Farm, Merle Common Road, Oxted, Surrey RH8 0RP

- 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 and Mrs B Whittaker against the decision of Tandridge District Council.
 - The application Ref is TA/2022/997.
 - The development proposed is Conversion of barns to a three-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024, the Government published a revised National Planning Policy Framework (the Framework). This included revisions to policies that are pertinent to the appeal, such as those relating to development in the Green Belt. During the appeal the parties were invited to comment on the relevance of the revised Framework to the appeal proposal. In my decision I have had regard to the parties' written responses.
3. The appeal submission includes a Preliminary Ecological Appraisal (September 2024) (PEA) which was not before the Council at the time of its decision. It is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
4. In this case, the PEA provides additional detail in relation to the potential for protected species within the appeal site, rather than any amendments to the proposal. The Council and interested parties had the full opportunity to comment upon the appellant's PEA, although the Council chose not to do so in any detail. I consider that there would be no prejudice to any party by considering the PEA, and I have therefore determined the appeal on this basis.

Main Issue

5. The main parties' written responses following the publication of the revised Framework confirmed their agreement that the appeal site is 'grey belt' land, as defined within Annex 2 of the Framework. As a result, the Council confirm that the proposal would not be inappropriate development within the Green Belt. The Council therefore no longer wish to defend the reason for refusal in respect of the proposal's effect on the Green Belt. From the submitted evidence and my observations on site I have no reason to disagree with the Council's conclusion and I therefore do not address this matter in the reasoning below.

6. Consequently, the main issue in this appeal is the effect of the proposal on protected species.

Reasons

7. The appeal site contains a series of linked buildings and structures spread along the boundary with Merle Common Road, which are largely hidden in public views from the highway by vegetation and tree coverage on the site boundary. A train line runs along the site's eastern boundary.
8. The appellant's PEA has been produced following a site visit and field survey which include a habitat classification survey. It includes a description of the habitats on the site and provides comments on the likelihood of protected and priority species being present on the land.
9. The PEA notes that ponds near to the site may be suitable for breeding great crested newts (GCNs), which are a protected species. It outlines that it is reasonably likely that GCNs could be found near to the site and that the site could form part of the terrestrial habitat of nearby GCN populations, if present. As a consequence, the PEA advises that to ensure the development proceeds lawfully, the site could be registered on the district level licensing scheme (DLL). However, no information is before me to show an application has been made for the site to join the DLL scheme.
10. The PEA also suggests that if the appellant does not wish to opt-in to the DLL then Natural England's standing advice¹ for GCNs should be followed, which may include the need for further surveys of ponds within 250 metres of the development boundary. The closest pond is located 140 metres from the site. However, no such evidence or assessment has been provided. For this reason, the appellant's evidence does not sufficiently demonstrate that there would be no impacts on GCNs overall.
11. In any event, the Conservation of Habitats and Species Regulations 2017 (as amended) impose a duty on me to consider whether European Protected Species such as GCNs would be affected by the development and whether associated mitigation measures would be effective. The submissions indicate it is reasonably likely that GCNs could be present on the site, although there is no evidence as to what extent they may exist. Also, there are no specific details on mitigation measures to address any risk of harm. The imposition of a planning condition to address this matter would not allow me to carry out a proper assessment as required under the aforementioned regulations. Without details of measures to avoid, mitigate or compensate for adverse effects, part D of Policy DP19 of the Tandridge Local Plan: Part 2 – Detailed Policies (2014) (TLP) indicates the development should not be permitted.
12. Paragraph 193 of the Framework advises that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less than harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
13. The field surveys found no evidence of Barn Owls on the site, whilst bat foraging and commuting is insignificant. The PEA evidences nesting collared doves within

¹ Great crested newts: advice for making planning decisions (2022)

building B1 within the appeal site. However, the PEA details recommendations and mitigation measures to address this, and these are not disputed by the Council. In the absence of any evidence to the contrary, I am satisfied that adequate safeguards could have been secured through an appropriately worded planning condition, had I been minded to allow the appeal.

14. However, in overall conclusion, the evidence which is before me does not adequately demonstrate that the appeal proposal would not be harmful to protected species, with particular regard to GCNs. Policy CSP17 of the Tandridge District Core Strategy (2008) (TDCS) and Policy DP19 of the TLP, amongst other things, seek to conserve and enhance biodiversity and promote nature conservation and management. In view of my conclusion on the effect on GCNs, the appeal proposal conflicts with both of these policies.

Other Matters

15. The appeal proposal would deliver one new dwelling to contribute to the housing stock within the District and would support the Government's objective of significantly boosting the supply of homes. It would also contribute towards housing choice and mix in the local area. The appeal site is within a fairly accessible location close to Hurst Green and Oxted. The proposal would constitute an efficient use of land, and would involve re-development of previously developed land. The site is a small one, so the redevelopment could be delivered quickly. Taken together, these benefits attract moderate weight in favour of the appeal proposal.

Planning Balance and Conclusion

16. The TDCS and TLP are over 5 years old but the weight to be attached here does not hinge upon their age. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. According to the Framework if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less than harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Therefore, the conflict between the proposal and policies CSP17 of the TDCS and DP19 of the TLP should be given significant weight in this appeal.
17. The appellant states that the Council cannot demonstrate a five year supply of deliverable housing land. I note that the Council's 2023/2024 monitoring report (May 2024) provides a supply figure of 1.92 years. Furthermore, I note the Housing Delivery Test (2023) identifies that the Council has delivered only 42% of its required housing over the past three years. The Council has not provided any comments on these matters, however, from the evidence before me paragraph 11(d) of the Framework is engaged. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
18. The contribution of one new dwelling must be viewed in light of the Council's inadequate housing supply and delivery, which has been persistent. In this context I recognise that the proposal would provide one dwelling reasonably quickly due to

the small scale of the scheme. I have considered that the Framework seeks to boost significantly the supply of housing and recognises the importance of small sites in meeting the housing requirement of the area. I attach significant weight to the potential contribution that the appeal proposal would make to the shortfalls in housing supply and delivery.

19. There is no dispute that the development would provide a good standard of accommodation, and the main parties agree that the proposal is not inappropriate development within the Green Belt. It is noted the proposal would not cause harm in relation to matters such as highways safety, the living conditions of neighbours and future residents, drainage, and flood risk. However, these matters are of neutral consequence to my assessment.
20. The appeal proposal would create employment, and support growth during the construction period albeit for a limited time. The proposal would result in a boost in the spending power of the local economy, and it would also help support services in the surrounding area. In this instance I attach limited weight to this matter, given the actual level of benefit has not been evidenced and would be limited by the small scale of the proposal. I recognise that the windfall development would incorporate low-carbon technologies, be energy efficient and would enhance biodiversity net gain. I afford this moderate weight. The proposal would also involve the removal of small structures within the site, and the general tidying up of the site. Given that the appeal site is relatively secluded in wider views, I have afforded this limited weight.
21. However, Paragraph 193 of the Framework sets out the principles for how decisions should protect and enhance biodiversity. Policy CSP17 of the TDCS and Policy DP19 of the TLP are consistent with the Framework. In view of my conclusions on the effect on a protected species, the appeal proposal conflicts with both the Framework and the development plan. Having regard to the statutory provisions protecting these species, I attach considerable weight to that potential for harm. I have identified no other harm. Crucially however, the potential ecological harm that I have identified significantly and demonstrably outweighs the benefits of the appeal proposal when assessed against the policies in the Framework taken as a whole.
22. There are no matters weighing in favour of the appeal proposal that either individually or collectively justify a decision being taken contrary to the development plan, including the contribution to the supply of housing in the area that would arise. For the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR