



Appeal Decision

Hearing held on 30 January 2025

Site visit made on 30 January 2025

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2025

Appeal Ref: APP/Y3615/W/24/3352713

The Tyrrell Building, Long Reach, Ockham, Surrey GU23 6PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
 - The appeal is made by Club Green against the decision of Guildford Borough Council.
 - The application Ref is 23/P/01001.
 - The development proposed is mixed use development comprising erection of three detached residential dwellings and an extension to existing commercial building and related access, refurbishment of an existing commercial building and alterations following demolition of existing extension; revised application further to 21/P/01193.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council resolved to refuse planning permission for six separate reasons. However, following its consideration of additional supporting information¹ submitted at appeal in advance of the Hearing, the Council has opted to no longer pursue its second, third, fourth, and fifth refusal reasons, which respectively related to: inadequate assessment in terms of noise impact; the effect upon mature trees; insufficient ecology information; and the achievement of biodiversity net-gain. Upon review of this additional submitted evidence, I have no reason to take a different stance to the Council on these specific matters. For the avoidance of doubt, I am content that no party with a potential interest in the outcome of the appeal is prejudiced by me accepting the additional supporting information for determination purposes.
3. Further, a unilateral undertaking pursuant to Section 106 of the Act (the UU) is before me. This is dated 15 January 2025 and signed by the relevant landowners and mortgagee. It secures the payment of Suitable Alternative Natural Green Space and Strategic Access Management and Monitoring contributions in the interests of mitigating recreational pressures placed upon the Thames Basin Heaths Special Protection Area (the SPA). The Council confirmed acceptance to the UU at the Hearing such that its sixth reason for refusing planning permission is also no longer being pursued. I shall formulate the Main Issues accordingly and shall return to the UU and the SPA later in this Decision.

¹ including: email composed by the appellant's Noise Consultant (13 December 2024); Arboricultural Method Statement (July 2024); Great Crested Newt Environmental DNA Survey (22 July 2024); Bat Emergence Survey Report (13 August 2024); Biodiversity Net Gain Assessment (8 September 2024)

Main Issues

4. The main issues are:
 - Whether or not the proposal represents inappropriate development in the Green Belt; and, if deemed that it does,
 - Whether or not the 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 necessary to justify it.

Site Description

5. The site falls within the Green Belt and contains an existing commercial operation related to the storage and distribution of cake decorations and craft and party products. The main warehouse building (the warehouse) is situated to the eastern part of the site adjacent to a grassed on-site area (the grassed area) that is located alongside a belt of established trees/planting that bounds Long Reach. A considerable portion of the remainder of the site is comprised of hardstanding that is utilisable for either parking or the external storage of goods, including within various existing temporary storage containers. The westernmost portion of the site comprises part of a wider grassed field that is bound by wooded areas to the west and south. An agricultural storage building (the agricultural building), which the appellant considers benefits from deemed consent via a recently made application² to determine whether prior approval would be required for its erection, sits to the site's southern boundary.

Reasons

Whether inappropriate development

6. It is common ground between the main parties that the proposal represents inappropriate development in the Green Belt. Nevertheless, there are various exceptions to development being considered inappropriate that are listed within the National Planning Policy Framework (December 2024) (the Framework) and which I need to be content would not be met. Of possible pertinence to the proposal are the exceptions set out at paragraphs 154(g) and 155 of the Framework.

Paragraph 154(g)

7. The paragraph 154(g) exception refers to the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), which would not cause substantial harm to the openness of the Green Belt.
8. Turning first to openness effects, the scheme, via the introduction of a large commercial extension in conjunction with three family-sized two-storey dwellings upon a part of the site that is stepped away from the warehouse and that does not presently contain buildings, would inevitably lead to a loss of openness. This loss would be exacerbated to at least some degree by the introduction of new access/circulation infrastructure (albeit in the context of a scheme-wide reduction in the extent of hardstanding), boundary treatments (to include an acoustic fence between employment and residential land uses), standalone bin/cycle stores, and

² Ref: 23/W/00049

general residential paraphernalia. Whilst limited visibility of the residential element of the proposal would avail in-part owing to its set back and set down positioning relative to Long Reach, it is important to recognise that Green Belt openness has a spatial dimension as well as a visual aspect.

9. The commercial extension, whilst large and likely to be readily appreciable from various Long Reach vantage points despite the presence of intervening planting, would be set into sloping ground following excavation within the grassed area. In addition, it would be positioned alongside an existing commercial building of similar height and general appearance. Furthermore, a condition could be reasonably imposed in the event the appeal be successful to guard against occurrences of materials/containers/equipment being stored externally across the retained employment part of the site – a restriction that doesn't currently apply. These are factors that would curtail, to some meaningful degree, the openness effects of the commercial element of the scheme.
10. However, in my judgement, the proposal would – when considered in overall terms – result in substantial harm to the openness of the Green Belt. This is principally due to the scale and positioning of each of the newly proposed residential dwellings and their cumulative effect when considered in conjunction with the loss of openness necessitated by the commercial extension.
11. I note that it is common ground between the main parties that the appeal site constitutes previously developed land. However, the precise extent of fixed surface infrastructure at the site and/or the positioning of the agricultural building, could bring into question whether or not a partial or complete redevelopment of previously development land (in accordance with the definition of previously developed land and relevant exclusions, as contained within Framework) is in fact under consideration. Nevertheless, as I have found that the proposal would cause substantial harm to the openness of the Green Belt, it is not necessary for me to consider this possibility any further for the purposes of this decision.
12. For the above reasons, the proposal before me would not be classified as not inappropriate development in the Green Belt via paragraph 154(g) of the Framework.

Paragraph 155

13. Paragraph 155 refers to the development of homes, commercial and other development in the Green Belt not being regarded as inappropriate where listed provisions (a to d) are all met where applicable. Provision (a) requires that development utilises 'grey belt' land and does not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan. Having considered the site's makeup and characteristics against the 'grey belt' definition contained within the Framework, where reference is made to previously developed land and/or other land that does not strongly contribute to any of the Green Belt purposes (a), (b), or (d) as set out at paragraph 143 of the Framework, I am content that the proposal would meet provision (a) of paragraph 155.
14. However, the appellant has not challenged the Council's assertion that it is currently able to demonstrate in excess of a five-year-supply of deliverable housing sites. As such, provision (b) of paragraph 155, which requires the existence of a demonstrable unmet need for the type of development proposed, is not complied with. Therefore, even should the other provisions of paragraph 155 be satisfied in

full, the proposal cannot be classified as not inappropriate development in the Green Belt via paragraph 155 of the Framework.

15. As such, I have no reason to disagree with the common ground reached by the main parties that the scheme represents inappropriate development in the Green Belt. The proposal conflicts with Policy P2 of the Guildford Borough Local Plan: strategy and sites 2015-2035 (April 2019) and Policy LNPH1 of the Lovelace Neighbourhood Plan (May 2021) in so far as these policies guard against harm to the Green Belt and set out that inappropriate development will not be permitted unless very special circumstances can be demonstrated

Other Matters

16. The site lies within the Zone of Influence of the SPA. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on (a) European site(s) (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. However, as I have found the development to be unacceptable for other reasons, it is not necessary for me to undertake an appropriate assessment. For the avoidance of doubt, even if I had done so and a positive outcome had ensued due to the relevant mitigation payments secured via the UU, it would not have affected my overall conclusions on this appeal.
17. I have noted objections/concerns raised by interested parties with respect to matters including: the effect upon the character and appearance of the area; highway and pedestrian safety; flooding; and the capacity of local services. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters any further here.

Whether very special circumstances apply

18. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework also indicates that substantial weight should be given to any harm identified to the Green Belt, including harm to its openness.
19. My attention has been drawn to a 2004 outline planning permission³ and associated 2007 reserved matters approval⁴ at the appeal site. The development permitted, which incorporates a 1,900 square metre detached two-storey employment building to the western part of the site, has been commenced and could thus lawfully proceed to completion⁵. There is thus a realistic possibility of the alternative scheme being built out, which would represent a valid fallback position (the fallback scheme), should this appeal fail.
20. The proposal now before me – which includes the erection of three dwellings, the construction of an extension to the warehouse, and a small extent of demolition works – would result in a lesser amount of total floorspace at the site when compared to if the fallback scheme were alternatively built out. Even so, the difference, purely in floorspace terms, would be limited. Furthermore, as the

³ Ref: 04/P/00680

⁴ Ref: 07/P/01834

⁵ as confirmed by Certificate of Lawfulness Ref: 13/P/00599

appeal proposal includes a mix of single-storey and two-storey buildings (as opposed to being exclusively two-storey), it would result in a larger overall footprint of built development when compared to the fallback scheme which is centred upon the provision of a single building with a close physical relationship to the warehouse. This larger footprint is perhaps most pertinently reflected across the western portion of the site where a notable spread of two-storey residential development is proposed.

21. It must also be factored in that the appellant has confirmed no intention of building out the fallback scheme for the purposes of their own occupation, and there are no firm assurances that said scheme would necessarily cater for the individual requirements of any possible future alternative owner/occupier of the site. Moreover, having compared openness effects with the appeal proposal and considered the uncertainties that prevail around full implementation, I attach limited weight to the fallback scheme.
22. In terms of scheme benefits, the proposal would make a small contribution in terms of the delivery of housing. As the delivery of three additional housing units would not make a noticeable difference to the housing supply situation in the Borough (even should an adjacent bungalow be freed up for occupation), this is a benefit that attracts limited weight.
23. There is common ground that the site, as presently operated, provides a valuable economic contribution. Indeed, the existing premise is sizeable, and the business currently employs 25 employees. As was apparent upon inspection, the warehouse is operating at the peak of its capacity such that the external storage of goods (in a variety of guises) is currently being necessitated. The proposed commercial extension would promote the provision of fit-for-purpose facilities and the retention/growth of the existing business on-site in the long-term. Further, it is anticipated that 10 additional jobs would be created and the scheme, taken as a whole, would encourage investment in the local economy during its construction and occupational phases. As such, when also factoring in the seemingly realistic and fair assertion that there are no suitable alternative premises close by and available for the business to potentially relocate to, the economic benefits of the scheme would be considerable and attract commensurate weight.
24. It is the appellant's stance that the proposed on-site residential development is required to cross-finance the proposed commercial part of the scheme. This is reflected in the submitted minutes of a series of Director Resolution Meetings (November 2020 - July 2024) whereby an intention to accrue funding via the sale of homes currently owned by the directors (to be replaced by new homes on-site) is detailed as the only way to ensure the proposed commercial extension be affordable. Further, a resolution to either relocate to a different district or cease trading in the event this appeal be unsuccessful was agreed at the July 2024 Director Resolution Meeting.
25. However, whilst I do not doubt affordability to be a legitimate constraint and acknowledge the potential for the business to either leave the borough or cease trading in the absence of permission to extend, no detailed viability evidence/financial information has been submitted to assist in clearly demonstrating on-site residential development (of the precise extent and form proposed) to be the only option for facilitating the commercial extension. In the context of very special circumstances being required to justify harmful development in the Green Belt, and

notwithstanding the clear resolutions that have been reached by company directors, this absence of detailed supporting information is a distinct shortcoming of the proposal that leads me to attach no significant weight to the viability arguments/personal circumstances that have been raised.

26. Improved access arrangements for the existing business (including in a vehicular sense and for persons with disabilities/mobility constraints) would result from the scheme. However, access improvements would be required to facilitate the proposed development in any event and internal accessibility improvements could be made to the warehouse independent of this development proposal. I thus attribute limited weight to any benefits to be drawn in an accessibility improvement sense.
27. I have noted the intention to incorporate sustainability measures within the construction of new buildings as well as the refurbishment of the warehouse. However, any benefits to be accrued in this sense would necessarily be minor and attract commensurate weight. This is especially so as it would be possible to retrofit at least some sustainability features to the warehouse in the absence of permission to carry out development.
28. The proposal would deliver biodiversity net-gain. This is consistent with an initial assessment⁶ carried out, and with the intentions to install a natural pond and introduce various elements of native planting to the site. Whilst the precise extent of net-gain would be finalised via condition in the event the appeal be successful, it is fair to envisage that a net-gain of consequential level would be achievable. This attracts considerable weight as a scheme benefit.
29. The scheme's benefits would, in cumulative terms, be significant. However, even when considered in conjunction with the limited positive weight I have afforded to the fallback scheme, such benefits would not clearly outweigh the substantial harm identified to the Green Belt (including harm derived from loss of openness) so as to amount to the very special circumstances necessary to justify the development. I have acknowledged the site's 'grey belt' classification in coming to this conclusion.
30. Moreover, the proposal conflicts with the development plan when read as a whole and material considerations, including the Framework, do not lead me to a decision otherwise.

Conclusion

31. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR

⁶ Biodiversity Net Gain Assessment (8 September 2024)

APPEARANCES

FOR THE APPELLANT

Stephen Whale	Counsel
Phil Rowe	PROwe Planning Solutions
Agostino Cipullo	Managing Director, Club Green
Pino Aina	Director, Club Green
Emilia Aina	Club Green

FOR THE COUNCIL

Katie Williams	Senior Planning Officer
Sakina Khanbhai	Planning Officer

DOCUMENT RECEIVED DURING THE HEARING

Site Location Plan with the applied for location of the agricultural building depicted, submitted by the appellant

DOCUMENT RECEIVED AFTER THE HEARING

Email confirming acceptance to pre-commencement conditions discussed at the Hearing, dated 30 January 2025, submitted by the appellant