



Appeal Decision

Site visit made on 26 November 2024

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2025

Appeal Ref: APP/D3640/W/24/3340703

Clews Lane Nursery, Clews Lane, Bisley, Woking, Surrey GU24 9DY

- 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 Karl Kavanagh against the decision of Surrey Heath Borough Council.
 - The application Ref is 23/0157/FFU.
 - The development proposed is described as "erection of stable block, hay barn and sand school".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is no evidence before me to confirm the lawful use of the appeal site and therefore whether it meets the definition of previously developed land. Despite the revision made by the Council to the description of development, the planning application form does not purport that a change of use of the site is sought by the appellant. According to the procedures governing planning appeals, the scope of my determination must only extend to the description of development cited on the planning application form, unless any subsequent revision was formally agreed between the main parties before the Council issued its decision. There is nothing before me to demonstrate any such agreement was reached. Consequently, my assessment is based on the original description provided by the appellant which is contained in the above heading.
3. The National Planning Policy Framework (the Framework) has been revised since the appeal was lodged. Although those revisions have led to changes to referencing, they do not raise any new matters which are determinative to my assessment.

Main Issues

4. The main issues for this appeal are:
 - whether or not the appeal proposal will preserve the setting, or any features of special architectural or historic interest of the Grade II* listed Church of St John the Baptist (List Entry Number: 1030064);
 - whether or not the appeal proposal is inappropriate development in the Green Belt and the effect on its openness;
 - the effect on the character and appearance of the area;

- whether or not the proposal poses a flood risk;
- the effect on local biodiversity interests;
- the effect on the safety of users of the local highway network;
- the effect on animal welfare;
- the effect on existing trees;
- the effect on the existing living conditions of neighbouring residents; and
- whether or not any harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances required to justify the appeal proposal.

Reasons

Background

5. The appeal site is situated on the edge of the built up extent of Bisley, outside of any defined settlement boundaries. It falls wholly within an area designated as Green Belt. The submitted evidence confirms that the appeal site has a history of refused applications for proposals relating to horticultural and other agricultural activity.
6. The site is accessed from the narrow, leafy, rustic Clews Lane along a gated and fenced off private driveway. This leads to a broadly rectangular roughly laid area which is also enclosed by high vertical close boarded timber fencing. At the time of my visit this lower section of the appeal site contained some parked motor vehicles. It also accommodates an old timber shed containing some small horses, several metal storage containers and a series of more recent, partly constructed, timber buildings. The remainder of this lower section of the appeal site is subdivided into several grassed fields of varying sizes.
7. A further larger field is located immediately beyond the lower part of the appeal site. The high timber fencing continues along their common boundary. A publicly accessible pedestrian route which leads to and from the grounds of the neighbouring Church of St John the Baptist runs through this larger field, along that fence line. The remaining boundaries of that larger field are mainly enclosed by mature trees and other vegetation. Horses were present within existing buildings on the site at the time of my visit, consistent with the appellant's description of his livestock. There was evidence onsite that the grassed areas are used for their grazing.

Heritage

8. The appeal site forms part of the historic rural setting of the Church. The significance of the neighbouring Church of St John the Baptist includes its historic cultural interest as a place of worship dating back to the 13th century. Its significance also rests in its historic architectural interest, including its 14th century timber framed porch, Carstone walls with sandstone block dressings and stock brick chancel, plain tiled roofs with a weatherboarded belfry under a wood shingle broach spire.

9. The presence of the church tower in the currently open skyline forms an important rustic backdrop to this part of the countryside which surrounds Bisley, amongst surrounding mature tree cover when viewed from Church Lane Clews Lane and from within the appeal site. Although discreet and modest in scale, this spire is a positive locally distinctive feature in the skyline, particularly in the winter months when much of the surrounding tree cover is unclothed.
10. Glimpsed views from the churchyard of the undeveloped grassed areas of the site which form part of the countryside setting of the Church can currently be caught through the mature tree cover and other vegetation which lines the party boundary. These are a reminder of the role of this historic Church within its rural community contributing to its significance.
11. The low height and distant positioning of the proposed stable block relative to the Church will not visually disrupt vistas to and from this important ecclesiastical building and its grounds within its authentic rural setting. Furthermore, any activity associated with that component of the appeal scheme will be at a distance from that asset. Therefore, change to the setting of this designated heritage asset arising from the stable block will have a neutral effect on the contribution that setting makes to the significance of the Church.
12. The ground level changes to create the proposed sand school will not visually disrupt vistas of the Church within its rural setting in visual terms. Therefore this proposed change to the setting of this designated heritage asset will have a neutral effect on the contribution that setting makes to the historic architectural significance of the Church. Nonetheless, the position of the proposed sand school to the Church will bring non-agricultural activity within very close proximity to the churchyard. This has the potential to unduly disturb the highly intimate and tranquil ambiance of the church grounds. This change will be harmful to what is an important element of the immediate setting of this important designated heritage asset and an integral part of its historic cultural significance.
13. The proposed haybarn will be situated between Clews Lane and the Church. It will be offset from the Church when viewed from Clews Lane, Church Lane and the pedestrian route that passes through the appeal site. However, by virtue of its close positioning, design, footprint and height, it will appear as a large unbroken building mass in the foreground setting of the Church. This domineering built presence will overly compete with the simple and understated presence of glimpses of the Church within the unfettered natural rural skyline which can currently be captured from within the appeal site, Clews Lane and Church Lane.
14. This change will reduce the ability to appreciate the tower, a key architectural feature of the Church, within its undeveloped countryside setting. This will be harmful to what is an integral part of the historic architectural and cultural significance of the Church. Furthermore, the position of the proposed hay barn to the Church will bring increased human activity within very close proximity to the churchyard. Similar to the sand school, this has the potential to unduly disturb the highly intimate and tranquil ambiance of the church grounds. This change will also be harmful to what is an important element of the immediate

setting of this important designated heritage asset and an integral part of its historic cultural significance.

15. Overall, I find that the appeal proposal will not preserve the setting of St John the Baptist Church. Consequently, the appeal proposal will not meet the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
16. The identified effects on the significance of this Grade II* listed building are of a nature and level which constitute less than substantial harm in the context of the approach of the Framework to heritage matters. In line with paragraph 213 of the Framework, any harm to the significance of a designated heritage asset, including from development within its setting, should require a clear and convincing justification. No public benefits have been advanced by the appellant, albeit there will be some limited economic benefits from the purchase and use of construction materials. However, in giving great weight to the conservation of this asset, that benefit does not outweigh the heritage harm identified. Therefore, that harm is not justified. This unjustified harm to the significance of the Church carries considerable importance and weight against the appeal scheme.
17. The appellant's evidence does not substantiate why the particular circumstances of the proposal relating to appeal decision Ref: APP/A3655/W/15/3004253 is comparable the appeal currently before me. From the evidence provided by the Council and the relationship of the current appeal scheme with the listed Church, it is not sufficiently comparable to carry any favourable weight in my assessment.
18. In view of my findings, for the reasons above I conclude that the appeal scheme will conflict with Policies CP2 and DM9 of the CSDMPD as it will not respect and enhance the quality of the historic environment. It also conflicts with objective of Policy DM17 of the CSDMPD to promote the conservation and enhancement of the heritage asset and its setting.

Whether Inappropriate Development in Green Belt

19. The Framework sets out the current national policy approach to development within Green Belt. This postdates the adopted Surrey Heath Core Strategy and Development Management Policies Document 2012 (the CSDMPD). Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, Policy DM3 of the CSDMPD sets out the Council's approach to equestrian related development in the Green Belt. This local approach is consistent with the Framework's approach to development in the Green Belt.
20. The grazing of horses falls within the scope of agricultural activity. However, this appeal relates, in part, to the erection of a building which is both described as and has the appearance of a stable block. Both the proposed stable building and sand school can be reasonably associated to supporting mainly equestrian activity; an outdoor sport or recreation use which falls beyond the scope of agriculture.
21. The appellant's evidence is unclear as to whether his stated agricultural activities beyond the grazing of horses relate solely to the appeal site or other

land. The proposed haybarn has the potential to serve agricultural or equestrian activities. However, it has not been sufficiently evidenced that the former would prevail. As such, it has not been adequately demonstrated that the purpose of the appeal proposals is to support agriculture activities in the main. As the appeal scheme falls beyond the scope of agriculture and forestry, it does not meet the exception to inappropriate development in the Green Belt set out in paragraph 154(a) of the Framework.

22. Paragraph 154(b) of the Framework states that the provision of 'appropriate facilities' (in connection with the existing use of land or a change of use), including for 'outdoor sport' and 'outdoor recreation' is not inappropriate development; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Therefore, even if the proposals are 'appropriate' facilities for outdoor sport or recreation, they must preserve openness and not conflict with the purposes of this Green Belt designation. The local approach to equestrian related development in the Green Belt set out in Policy DM3 is consistent with that of the Framework and seeks to ensure that openness is not harmed.
23. The concept of openness has both a spatial and a visual dimension. The combination of the topography of the appeal site and its surroundings, along with its existing developed and wooded context mean that it is visually well-contained from the wider countryside. The appreciation of its existing level of openness in the context of the wider Green Belt is restricted to short and medium distance vantage points along Church Lane, Clews Lane, the neighbouring churchyard and from within the site itself.
24. The appeal proposal will introduce an increased developed footprint and volume in the form of a stable block, hay barn and uncovered sand school. These will extend across a significant part of the lower parts of this site, closest to the built form of Bisley. This proposed change will be accompanied by increased activity from prospective visitors and their vehicles. By virtue of their footprint, volume, massing, height and lighting requirements and their juxtaposition with existing neighbouring development, these proposed changes will amount to a reduction to the existing level of openness of this part of the Green Belt in both spatial and visual terms.
25. Despite the existing boundary treatment, these proposed changes will be significant when experienced from within the appeal site itself, including along the public route which intersects it and also from vantage points along Clews Lane, Church Lane and the neighbouring church grounds. Collectively, the proposed localised change and the degree of its containment from the wider Green Belt will cause a moderate level of harm to the openness of the Green Belt. This conflicts with the intention of this Green Belt designation.
26. In view of these findings, the appeal proposal does not meet the terms of paragraph 154(b) or any of the remaining exceptions set out in that paragraph of the Framework.
27. In terms of paragraph 155 of the Framework, the concept of 'grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 of the Framework (other than Green Belt) would provide a strong reason for refusing or restricting development. In view of my heritage findings, the appeal proposal does not meet that exception.

28. In view of the identified harm to openness, neither does Policy DM3 of the CSDMPD give support to the appeal scheme.
29. The appeal scheme is inappropriate development which is harmful by definition. Paragraph 153 of the Framework directs the decision-maker not to approve inappropriate development in the Green Belt, except in very special circumstances. Moreover, 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. I address this matter of balance later.

Character and Appearance

30. The intimate, relatively undeveloped, verdant countryside character and appearance of this area is derived by the discreet placement of individually designed properties on the opposite side of this part of Clews Lane set within mature landscaping. Its narrowness and abundance of undeveloped fields, mature hedgerows and trees also contribute to this. The tranquil contemplation currently offered by the grounds of the Church and the partial or glimpsed vistas of its tower and roof within its remaining historic open countryside setting also contribute significantly to the character and appearance of this countryside context to Bisley.
31. The proposed development will introduce further development within the appeal site itself which will significantly erode its remaining green, undeveloped areas of this part of the countryside context to Bisley. The identified heritage harms will transpose to the inherent tranquil countryside character of this rural location. By virtue of its positioning, footprint and height, the proposed hay barn will hinder or dominate existing vistas of the Church tower which contribute positively to the predominantly green and intimate countryside appearance of its immediate context.
32. For these reasons, overall the appeal scheme will cause moderate harm to the character and appearance of the area. In view of this, the appeal scheme will conflict with Policy CP2 and DM9 of the CSDMPD as it will not respect and enhance the local historic character of this rural environment.

Flood Risk

33. The appeal site is located within Flood Zone 1 but exceeds the 1 hectare threshold of Policy DM10 of the CSDMPD. The appellant has submitted an outline drainage strategy. However, that does not adequately confirm how surface water will be managed on site, and how the proposals will avoid any increase in surface water flood risk downstream. Accordance with the drainage hierarchy and details on how the drainage system will be maintained for the lifetime of the development have also not been demonstrated. The objection from the Local Lead Flood Agency has not been adequately addressed.
34. Consequently, there is insufficient certainty that the appeal scheme is at least risk neutral. Therefore, there is a potential flood risk which would be harmful. The proposed development is therefore contrary to Policy DM10 of the CSDMPD.

Biodiversity

35. The submitted ecological appraisal does not provide a sufficiently robust construction and operational assessment of the development. Furthermore, the submitted information has not adequately evidenced whether potential bat roosting features are present on the site. Therefore, the presence or absence of bats is uncertain. There remains a risk of harm to local biodiversity interests.
36. Therefore, the appeal scheme conflicts with Policy CP14A of the CSDMPD as it has not been adequately demonstrated that there would be no harm to biodiversity and that it would be protected, managed or enhanced.

Highway Safety

37. The submitted Highway Statement provides traffic data on the existing use of the site, as well as the anticipated number of vehicle movements following the proposed development. The Local Highway Authority has withdrawn its objection.
38. There is space for turning within the appeal site. The existing access off Clews Lane is capable of allowing vehicles to enter and leave the appeal site in a forward gear. The local road network, whilst narrow and absent of footpaths in places, is generally of a sufficient width and geometry to be capable of accommodating vehicles that can be reasonably associated with the proposals.
39. From my site observations and the evidence before me, there is no basis to find that the concerns expressed about the safety of pedestrian and road users is substantiated to an extent that would be harmful. Consequently, there is no conflict with Policies CP11 and DM11 of the CSDMPD.

Animal Welfare

40. I am satisfied that the Council's concerns arising from the dimensions of the proposed stables can be addressed through the imposition of appropriately worded planning conditions. These could ensure that the proposed accommodation is commensurate to the requirements of the particular animals to be housed so as not to cause any harm to them or conflict with the development plan or any current animal welfare guidance.

Trees

41. The Council's concerns about the effects on existing trees can be addressed through the imposition of a planning condition requiring the precise location of the appeal proposals and tree protection measures necessary to be agreed on site with the Council prior to any development.
42. As this will enable the protection of trees and other vegetation worthy of retention, the appeal scheme would not be harmful in that regard. Consequently, there is no conflict with Policy DM9 of the CSDMPD.

Living Conditions

43. The appeal proposal will give rise to activity around and within the site, which may extend into the evening. However, the evidence before me does not demonstrate that at the occupation stage this will be of a nature or level that will be significantly greater than has previously existed or that could be

reasonably be expected by occupants of neighbouring properties from the responsible use of the appeal proposals.

44. Consequently, in the absence of any harm there is no conflict with Policy DM9 of the CSDMPD in that regard.

Whether Very Special Circumstances Exist

45. The appeal proposal represents inappropriate development in the Green Belt, which is harmful by definition. It will also cause moderate harm to its openness. In line with paragraph 153 of the Framework, those identified harms carry substantial weight against the appeal scheme.
46. In terms of other considerations, the identified heritage harm has not been justified and does not meet the provisions of the Act. I give considerable importance and weight to that finding and great weight to the conservation of that designated heritage asset. I attribute moderate weight to both the identified harm to the character and appearance of the area and potential flood risk. I also attribute moderate weight to the potential of harm to local biodiversity interests, including a protected species.
47. Although I do not concur with the Council on their remaining matters of concern and find no conflict with the development plan in these regards, those particular matters are of neutral consequence to my assessment. Other than the identified economic benefit of the scheme, no matters have been demonstrated as weighing in favour of the appeal proposal.
48. The demonstration of very special circumstances is an extremely high policy bar to exceed. Overall, I conclude that the other considerations of this particular case, when set against either the national or local policy context do not 'clearly outweigh' the harm identified by reason of inappropriateness, together with the harm to the significance of an important designated heritage asset, the character and appearance of the area, flood risk and local biodiversity interests. Therefore, very special circumstances do not exist in this instance. As such, the appeal proposal conflicts with paragraph 153 of the Framework.

Conclusion

49. Overall, I have found that the appeal proposal does not accord with Policies DM3, DM9, DM10, DM17, CP2 and CP14A of the CSDMPD. The nature and level of these conflicts is such that the appeal proposal conflicts with the development plan when taken as a whole.
50. Furthermore, in terms of the most up to date national policy approach to designated heritage assets, the proposal is contrary to the Framework as it will cause unjustified less than substantial harm to the significance of the neighbouring Grade II* listed Church of St John the Baptist. Neither therefore does it meet the provisions of the Act.
51. Furthermore, in applying current national Green Belt Policy, I have found that very special circumstances do not exist to justify allowing this proposed inappropriate development in the Green Belt.

52. Consequently, there are no matters that indicate that a decision, other than one in accordance with the adopted development plan, should be taken. Therefore, the appeal should be dismissed.

C Dillon

INSPECTOR