
Appeal Decision

Site visit made on 18 February 2025

by **R Cahalane BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th May 2025

Appeal Ref: APP/C3620/W/24/3352137

Betchworth Works, Ifield Road, Charlwood, Horley, Surrey RH6 0DX

- 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 Bruce Broughton against the decision of Mole Valley District Council.
 - The application Ref is MO/2024/0453/OUT.
 - The development proposed is Outline Application for the erection of up to 3 no. dwellings with associated parking and amenity space, with all matters reserved.
-

Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal scheme relates to an outline proposal, with all matters reserved. I therefore must treat the submitted plans as indicative only.
3. The submission includes two block plans indicating alternative layouts of two dwellings and three dwellings, both of which are dated prior to determination of the application by the Local Planning Authority (LPA). The appellant contends that a reserved matters application could determine whether two or three dwellings are approved. However, an outline permission would form the planning permission and would therefore permit whatever is contained in the description of development. I therefore must consider the proposal as comprising a maximum of three dwellings, even if a lower amount could be submitted at reserved matters stage.
4. A previous outline application on this site for three dwellings was refused in June 2023¹, determined under previous planning policies and guidance. Whilst the planning history is a significant material consideration, I must also have regard to the submitted evidence for this appeal. I have considered the appeal accordingly.
5. Subsequent to the determination of the planning application, the Mole Valley Local Plan 2020-2039 (MVLP) was formally adopted on 15th October 2024. The LPA has confirmed that its policies replace those of the 2000 published Mole Valley Local Plan and 2009 Core Strategy listed in the reasons for refusal. The LPA has also clarified which MVLP policies are relevant to this appeal, and the appellant was given an opportunity to respond in final comments.
6. The second reason for refusal in the decision notice refers to potential impacts upon great crested newts (GCN). In response, the appeal submission includes a GCN Habitat Suitability Index Survey and Site Risk Assessment. This has been

¹ LPA Ref: MO/2022/2117

assessed by the LPA's ecological consultant, who now accepts that precautionary working methods are sufficient to reduce the risk to GCN and their habitats to a satisfactory level. The LPA therefore considers that this reason for refusal is overcome, subject to a pre-commencement planning condition requiring the submission of a Precautionary Working Statement in the form of a Reasonable Avoidance Measures/Non-Licensed Method Statement.

7. A revised National Planning Policy Framework (the Framework) was issued on 12 December 2024. I have given the main parties an opportunity to comment as to whether the Framework revisions have any relevance to the appeal.
8. In light of all the above, the main issues are:
 - whether the appeal site is grey belt land with particular reference to purposes (a), (b), and (d) in paragraph 143 of the National Planning Policy Framework (the Framework);
 - whether the proposal is inappropriate development for the purposes of the Framework and the development plan;
 - the effect of the proposed development on the openness and purposes of the Green Belt;
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to very special circumstances required to justify the proposal.

Reasons

Grey belt land

9. The appeal site comprises a parcel of land fronting Ifield Road, with dwellings on each side and the Betchworth Works commercial site beyond its rear elevation. The site is within the Metropolitan Green Belt, and near to the settlement boundary of the 'Inset (Large) Rural Village' of Charlwood.
10. In order to conclude whether the appeal site comprises grey belt land, I must assess whether it strongly contributes to any of Green Belt purposes a), b), or d) as set out in paragraph 143 of the Framework. I have had regard to the submitted evidence and my site visit observations and have also drawn upon the Planning Practice Guidance (PPG) which provides advice on how to determine whether land constitutes grey belt in decision making.
11. Purpose a) is to check the unrestricted sprawl of large built-up areas. The appeal site is mainly enclosed by shrubbery on three sides, with Betchworth Works immediately to the rear, which restricts and contains development. The size and positioning of the site would also avoid an incongruous pattern of development such as an extended "finger" of development into the Green Belt. The site therefore does not strongly contribute to Green Belt purpose a).
12. Purpose b) is to prevent neighbouring towns merging into one another. Charlwood is classified in the MVLP as a large village, but not a town. In any event, due to the

site's size and positioning in between dwellings on either side, and adjacent a commercial site to the rear, the site does not form a substantial part of a gap between towns. The proposal would also not result in the loss of visual separation of towns. The site therefore does not strongly contribute to Green Belt purpose b).

13. Purpose d) is to preserve the setting and special character of historic towns. Based on the evidence before me and what I have seen on site, the appeal site does not form part of the setting of a historic town and has no visual, physical, or experiential relationship to historic aspects of a historic town. The site therefore makes no contribution to the setting and special character of a historic town.
14. In conclusion, the appeal site does not strongly contribute to Green Belt purposes a), b), or d) in paragraph 143 of the Framework. For the purposes of the Framework, it therefore comprises grey belt land.

Whether or not inappropriate development

15. The appellant intends to provide all proposed dwellings as Affordable Housing (AH). Paragraph 154 of the Framework states that development in the Green Belt is inappropriate unless certain exceptions apply, one of which is criterion f): limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites). Policy H4 of the MVLP is the relevant rural exception site policy.
16. The appeal application includes a Housing Need Report (HNR) for the Parish of Charlwood. The HNR contains a housing needs survey that identified 19 households with a local connection to the Parish in need of 'alternative accommodation', which comprises Housing Association Rent, Housing Association Shared Ownership and Open Market dwellings of varying type and size.
17. If secured as AH, the appeal proposal could cater for this identified local need. The MVLP requires affordable homes to be provided on new developments. My attention has also been drawn to a recent outline scheme² in Hookwood which was allowed at appeal for up to 446 dwellings, which the LPA states would deliver up to 201 affordable dwellings. Whilst this allowed development may cater for the specific local need identified in the HNR, it may not be a suitable or desirable location for existing residents of Charlwood village. It is also common ground between the main parties that the appeal site is an appropriate location for a rural exception site, to meet an identified need for AH.
18. The appellant has no objection in principle to a mechanism, legal agreement, unilateral undertaking or otherwise to ensure that the proposed housing would remain only available as AH. It is put to me that such matters can clearly be dealt with as part of the reserved matters rather than a further expense up front. The appellant also considers that it is not possible to draft an agreement at outline stage with sufficient precision until it was established as part of reserved matters whether two or three dwellings were approved. There is however no compelling evidence to demonstrate that a legal agreement could not be appropriately worded to cater for a development of two or three dwellings at this site.
19. The submitted evidence indicates that the absence of a legal agreement did not form a reason for refusal of the previous outline application on this site³. My

² LPA Ref: MO/2023/1125

³ See footnote 1 above.

attention is also drawn to an appeal allowed in Hertfordshire⁴ that includes a wide range of matters included as planning conditions. The appellant contends that this indicates that the absence of a completed legal agreement is not fatal. That appeal decision however refers to two bilateral undertakings submitted under section 106 of the Town and Country Planning Act 1990 to secure a number of planning obligations, including AH. In any event, I must determine the current proposal on its own merits based on current planning policy requirements. In this regard, Policy H4 of the MVLP requires, amongst other things, the affordable homes to be all retained as affordable housing in perpetuity.

20. The PPG advises that a positively worded condition which requires the applicant to enter into a planning obligation is unlikely to pass the test of enforceability. In this case, a legal agreement is needed to ensure that the development would be transferred to an AH provider, that appropriate occupancy criteria are defined and enforced, and that the AH is available to first and subsequent occupiers. No such legal agreement is before me. As AH is not secured through an appropriate mechanism, the exception under Framework paragraph 154 (f) does not apply.
21. Turning to the grey belt land requirements for the proposal, Paragraph 155 of the Framework states that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where all the following apply:
 - a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - b. There is a demonstrable unmet need for the type of development proposed;
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
 - d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below.

Green Belt purposes

22. I accept that the District recently adopted its Local Plan in October 2024 following a Green Belt boundary review. Its Policies Map however shows an extensive expanse of undeveloped Green Belt land beyond Charlwood. The appeal site is small in size by comparison and is contained to the front by the road, on each side by dwellings, and to the rear by Betchworth Works. The countryside surrounding Charlwood would therefore be safeguarded from encroachment, and there would also be no conflict with the other Green Belt purposes as listed in paragraph 143 of the Framework. The development would therefore not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the plan area.

Demonstrable unmet need

23. In the case of applications involving the provision of housing, footnote 56 of the Framework defines 'demonstrable unmet need' as, amongst other things, the lack of a five year supply of deliverable housing sites, including the relevant buffer

⁴ APP/J1915/W/24/3340497: Land east of A10, Buntingford

where applicable, or where the Housing Delivery Test is below 75% of the housing requirement over the previous three years.

24. The Council's latest five-year housing land supply position is set out in the Inspector's Report on the Examination of the MVLP (September 2024). The Inspector concluded that on adoption of the MVLP, there would be a deliverable supply of housing exceeding the five-year requirement by some 404 net dwellings. The latest Housing Delivery Test result (2023) for the District is 78%.
25. Footnote 56 clearly sets out that a 'demonstrable unmet need' relates to situations where there is no five year housing land supply or Housing Delivery Test requirement. It does not refer to a lack of AH in the District.

Location

26. It is common ground between the main parties that the site is in a sustainable location in terms of access to amenities of Charlwood. Following my site visit, I have no reason to disagree. The proposal is therefore in a sustainable location with reference to Framework paragraphs 110 and 115.

Golden rules

27. As the proposal does not comprise major development⁵, the Framework's 'Golden Rules' are not applicable. Paragraph 155 d. of the Framework is therefore not applicable to the development.

Conclusion – whether the proposal is inappropriate development

28. I have found that the proposal site comprises grey belt land having regard to the Framework. If the proposed AH were to be delivered, it would also benefit from support under Framework paragraph 154 f) as limited AH for local community needs under policies set out in the development plan.
29. However, as the proposed AH is not secured by means of legal agreement, it is not certain that the development would meet a demonstrable unmet need for this type of development. It is therefore inappropriate development of grey belt land in the Green Belt having regard to the Framework, and would not benefit from the exception under Framework paragraph 154 f). In this respect, there would also be conflict with MVLP Policy EN1 which states that land which is designated as Metropolitan Green Belt will be protected against inappropriate development, as defined by national policy.

Effect on openness/green belt purposes

30. In light of the above, I must also consider the effect of the proposal on the openness of the Green Belt. The Framework states that openness is an essential characteristic of the Green Belt. The Supreme Court⁶ has held that a consideration of openness in any given case is a matter for the decision maker and may or may not include a consideration of the visual aspect of openness. For the purposes of this appeal, I have considered both the visual and spatial aspects of openness.

⁵ For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.

⁶ *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council* (Appellant) [2020] UKSC 3

31. The appeal site is undeveloped apart from a small fenced substation adjacent to its northern boundary, and contains some shrubbery and small trees. The site is well obscured by landscaping, in particular along the Ifield Road frontage and the northern side boundary. Whilst the visual impact on the openness of the Green Belt may be limited subject to retention of and provision of landscaping, the introduction of up to three dwellings within this site would nonetheless reduce the openness of the Green Belt in spatial terms.
32. The proposal would have a greater impact on the openness of the Green Belt than the existing situation. Whilst the harm would be moderate, this would be contrary to the Framework where it states that an essential characteristic of Green Belts is their openness. Moreover, the proposal would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.

Character and appearance

33. Throughout the village, I noted a number of semi-detached properties, some with narrow frontages, along with noticeably wider frontages containing detached dwellings. There are also some dwellings adjacent to the village recreation area north of The Street. Along Ifield Road, there is a long terraced row of narrow historic cottage-style dwellings. This road also contains wider semi-detached plots and some large detached plots.
34. The village therefore has a variety of plot sizes, rhythms and dwelling types. However, plots generally become more spacious towards the village boundary edge and the appeal site. Betchworth Bungalow, immediately south of the site, forms a wide plot with a single storey dwelling. By contrast, the indicative terrace of three dwellings would be contained within very narrow plots, that would appear unacceptably cramped in comparison to that property and other surrounding dwellings in the immediate vicinity. Whilst layout is a reserved matter, given the size of the site, to mind my mind it would not be feasible to provide three dwellings in any other form than a terrace, or laid out in a manner where units would be positioned very close to one another.
35. I accept that the dwelling could be designed to simple and sound architectural principles, including materials. I also note the indicated setback distance from the highway, and potential use of existing front boundary planting and further landscaping for screening. I am not however satisfied that three dwellings could be accommodated on this site without appearing unacceptably cramped in nature within its surrounding context. The proposal would therefore form an unacceptably urban form of development within a rural fringe setting, thus failing to respond to its local context and harming the character and appearance of the area.
36. The appeal proposal would therefore harm the character and appearance of the surrounding area, contrary to Policy EN4 of the MVLP which requires, amongst other things, development to make a positive contribution to its local character, respond to the prevailing pattern of development and be of appropriate proportion and form.

Other considerations

37. The proposal could provide up to three dwellings as AH to meet an identified local need for those with specific housing requirements. The appellant wishes to do something philanthropic with the land by way of obtaining permission for AH to

assist with the difficult economic climate regarding the adjacent commercial estate within his ownership. However, as there is no mechanism in place to secure AH, I can only afford limited weight to this benefit.

38. Provision of dwellings on the appeal site could form an efficient use of the land reasonably near to existing services and facilities, that could deliver economic, social and environmental objectives. It could also provide some natural surveillance to potentially reduce the incidence or fear of crime. Given the small size of the proposal and the concerns regarding its future layout, I afford limited weight to these benefits.
39. The scheme could be laid out in a manner to provide separate garden areas and respect living conditions of nearby properties. As these matters form typical planning policy requirements, they do not weigh in favour of the proposal.
40. The appellant has been aggrieved by the slow application throughput and constant chasing for updates. These are however matters between the appellant and the LPA, and do not have a bearing on my determination of this appeal.

Conclusion

41. For the reasons given above, the proposal would be inappropriate development in the Green Belt. Moreover, it would lead to a moderate loss of openness to the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Provision of three dwellings at this site would also unacceptably harm the character and appearance of the area. The Framework requires substantial weight to be attached to any harm to the Green Belt, and it also states that very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
42. The other considerations in this case, when taken together, do not clearly outweigh the totality of the harm identified. No very special circumstances therefore exist. The appeal is therefore dismissed.

R Cahalane

INSPECTOR