



Appeal Decision

Site visit made on 5 February 2025

by **A Knight BA PG Dip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 JUNE 2025

Appeal Ref: APP/M2270/W/24/3347954

Milford House, Penshurst Road, Speldhurst, Tunbridge Wells, Kent TN3 0PH

- 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 Michael and Mary Marshall against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 24/00339/FULL.
 - The development proposed is erection of an eco-friendly 4 bed dwelling within the existing curtilage of the property set in an ecologically designed landscape.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reason for refusal cites policies in the Tunbridge Wells Borough Submission Local Plan (2021) (the SLP). The Council describes this plan as being at examination, and as attracting moderate weight. However, in the absence of any further detail as to the exact status of the SLP, including any objections to it, I attach no weight to it.
3. Since the determination of this application a revised National Planning Policy Framework (The Framework) has been published. The main parties have been given the opportunity to comment on any implications, and I have determined the appeal on the basis of the submissions received overall.

Main Issues

4. The main issues are:
 - Whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the development on the character and appearance of the area, including the High Weald National Landscape; and
 - 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; Openness

5. The appeal site (the site) is alongside a detached dwelling (Milford House), located towards the edge of Speldhurst, where the village begins to cede to open countryside beyond. The site itself is largely open land. It benefits from a certificate of lawfulness¹ for use as extended garden land and includes a tennis court.
6. Most of the site is within the Green Belt. Paragraph 153 of the Framework states that development in the Green Belt is inappropriate save for certain exceptions. These include, at 154(e), limited infilling in villages and, at 154(g), the partial or complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt. The appellant considers the provisions of both paragraphs to be applicable.
7. Policy MGB1 of the Tunbridge Wells Borough Local Plan (2006) (the LP) prohibits development which would conflict with the purposes of including land in the Green Belt, save for certain exceptions. The limited infilling of villages is not one of them. Core Policy 2 of the Tunbridge Wells Core Strategy (2010) (the CS) provides a general presumption against inappropriate development in the Green Belt and, whilst not explicitly permitting the limited infilling of villages, requires any new development to accord with the provisions of Planning Policy Guidance Note 2 (PPG2) or its replacement. As such, the CS adheres directly to the Framework, which replaced PPG2.
8. There is no definition of “limited infilling” for the purposes of paragraph 154(e) and no reference therein to openness. Nevertheless, I consider that to ‘infill’ is to fill a defined and limited gap between buildings, as opposed to extending the presence of development outwards from an existing conurbation.
9. The proposed dwelling would not be the only one set behind main building lines locally; there are dwellings of that type to the east of the site, accessed from both Penshurst Road and Southfields. However, even if the proposed dwelling would mark a southward and westward continuation of comparable existing development, the land beyond the site to the south and west is undeveloped. As such, there is nothing in those directions to define the far side of a gap that the proposed development would infill. Rather, it would simply continue development outwards from the centre of the village. As such, and even if the site is within the village for the purposes of paragraph 154(e), the proposed development would not represent limited infilling.
10. Pertinent to paragraph 154(g) the Council considers the site to comprise previously developed land. I have no reason to see the matter otherwise. I also acknowledge that, compared to agricultural land near it, the site has a recognisably formal, residential character. This includes mowed grass, clipped hedgerows, spacious gaps between trees, and the tennis court. Even so, the site is overwhelmingly open and green, and is recognisable as such from the site itself, as well as from Milford House, from neighbouring dwellings, and from the open land and public footpath running past the site to the south.

¹ Application Ref 17/00728/LDCEX

11. Openness in the Green Belt has spatial as well as visual aspects. With a footprint of some 194m² and arranged over two storeys, even without hard landscaping the proposed dwelling would introduce substantial additional built development. Existing greenery could be supplemented with further planting to mitigate the visual prominence of the dwelling, but I have no evidence it would screen it from view, particularly when the leaves fall. Rather, the dwelling would be a visually striking intrusion into open land to the southwest of the village. This would be exacerbated when lights were on during darker days and evenings.
12. Both in terms of the amount of development proposed, and its visual impact in the setting, the proposed dwelling would cause substantial harm to openness and, as such, does not benefit from the provisions of paragraph 154(g). As the Framework states that the government attaches great importance to Green Belts, the essential characteristics of which are their openness and permanence, this provides a strong reason for refusing the development proposed.
13. Reference is made in the design and access statement to a development of six dwellings at Land West of Sychem Place, Five Oak Green. However, the subsequent appeal statement of case does not provide any details as to how that development may be comparable to the appeal proposal, and I attach minimal weight to it, therefore.
14. The proposed development would be inappropriate development in the Green Belt having regard to the Framework and Core Policy 2 of the CS and would cause significant harm to its openness.

Character and appearance (including the National Landscape)

15. The appeal site is in the High Weald National Landscape (the NL). In December 2023, Section 245 of the Levelling-Up and Regeneration Act (LURA) amended the duty on relevant authorities in respect of their interactions with statutory purposes of NLs, as set out in Section 85 of the Countryside and Rights of Way Act 2000 (as amended) (CRWA). Insofar as it relates to this appeal, the amendment now requires relevant authorities, in exercising or performing any functions in relation to or so as to affect land in an NL to seek to further the purpose of conserving and enhancing the natural beauty of the NL.
16. The Framework requires that great weight be given to conserving and enhancing landscape and scenic beauty in National Landscapes which have the highest status of protection in relation to these issues. Core Policy 4 of the Tunbridge Wells Borough Core Strategy (2010) states that urban and rural landscapes, including the NL, will be conserved and enhanced. I attribute significant weight to the policy as it adheres so directly to the Framework.
17. The Landscape Design Statement (LDS) illustrates an intention to use external materials and planting that, from my visit to the area, would not be out of place in the setting. I also note the intention to provide a highly naturalistic garden and, as set out above, do not doubt that planting of the type proposed would mitigate the visual prominence of the dwelling. It would also create an attractive, enjoyable environment for future occupiers.
18. Even so, the pertinent requirement is to conserve and enhance the natural beauty of the NL. I have very little from the appellant to how the proposed development would achieve this. Given the site is currently largely undeveloped, open, and

green, the erection there of a four-bedroom house, even if accompanied by a sympathetic pallet of external materials and a rich landscaping scheme, would fail to conserve natural beauty and, on the evidence before me, fail even more so to enhance it. This, given the clear and consistent requirement in this respect, provides a strong reason for refusing the development.

19. The proposed development would have a harmful effect on the character and appearance of the area, including the High Weald National Landscape, contrary to Core Policies 4 and 14 of the CS and Policies LBD1, EN1, and EN25 of the LP where they require urban and rural landscapes, including the NL, and with reference to those outside the limits to built development, to be conserved and enhanced, and that design proposals respect site context.

Other considerations

20. The appellant considers very special circumstances exist to justify approval of the proposed development which, for the reasons set out above, I have found to be inappropriate in the Green Belt.
21. The Council can only demonstrate a 3.9 year supply of housing land, a notable underperformance against the Government's stated objective of significantly boosting the supply of homes. The appeal proposal would contribute towards both the local shortfall and the national aim, but modestly so, given it would only provide one dwelling. Whilst the site is outside the designated limit to built development, it is close to its edge. I recognise the advantage the appeal site has in this respect over other, more remote ones, and that the Council has raised no strategic objection on the grounds of location.
22. Part of the site is inside the Green Belt and part is outside. Within the site itself, there is no formal border between the two. Even so, the line of the Green Belt boundary is easy to appreciate; it meets the boundaries of the dwellings Hillcroft, Southfields, and Meadway, each on Penhurst Road, as well as those of Caynham Camp, Springbank, and South Acre, each on the street Southfields. The line of the Green Belt boundary across the site is a direct continuation of the rear boundary line at Hillcroft and Southfields and is readily appreciable as such. The Green Belt boundaries are defined clearly, using physical features that are readily recognisable and likely to be permanent, as advised in paragraph 149 of the Framework, and I do not find the arrangement to comprise a very special circumstance in favour of the proposed development.
23. My attention is drawn to a previous permission for residential development on land including the northern part of the site². It is contended that the potential for harm from domestic paraphernalia associated with the appeal proposal would be no greater than from this previous permission. I do not see that this is evidently the case. To my mind, most domestic paraphernalia is likely to spread outwards from, or be located in direct correspondence to, a host dwelling. The previous permission was for a dwelling near Penhurst Road, broadly level with Milford House, whereas the appeal proposal is for a dwelling set far further back. The likely location, visibility, and effect in the setting of any domestic paraphernalia is likely to be different from one scheme to the other, therefore, and I do not find the previous permission to comprise a very special circumstance.

² Application Ref 21/00618/FULL

24. The appellant contends that new domestic buildings associated with Milford House or with the dwelling approved by the previous permission may be built on the site utilising Schedule 2, Part 1, Class E of the General Permitted Development Order (2015) (GPDO). It is argued that the appeal scheme would be preferable. A previous appeal decision is cited³.
25. The provisions of Class E are not restricted by Green Belt and NL designations. Nevertheless, any building provided in pursuance of that class must, in addition to complying with the prescribed dimensional restrictions, be one required for a purpose incidental to the enjoyment of the dwellinghouse as such. I have no evidence that a building complying with these limitations is capable of impacts comparable to those associated with a building as large as the proposed dwelling.
26. Furthermore, I am particularly mindful that the previous appeal decision serves simply to certify that the erection of a garden shed, as proposed in that instance, would be development permitted by Class E. It explicitly does not address whether all of the current appeal site is within the curtilage of a house, as required to use permitted development rights. It is not apparent that even the largest or most impactful building provided in lawful compliance with Class E could be placed prominently on the site. The project does not comprise a very special circumstance.
27. Whilst it may be possible to provide high design quality, additional tree planting, landscaping, sustainability, carbon neutrality, and the creation of 'whole life' housing as part of the proposed development these are, in the main, expectations of policy. I have little to illustrate that they comprise additional benefits beyond that, and less still to demonstrate that they comprise a very special circumstance.

Other Matters

28. Whilst the Council cannot demonstrate a 5 year supply of housing land, the provisions of paragraph 11(d) of the Framework are not engaged as I have found that the proposal would be contrary to policies in the Framework that protect areas or assets of particular importance, and that this provides strong reasons for refusing the development proposed.
29. I recognise third party support for the proposal but have assessed the scheme against relevant planning policies.

Green Belt Balance and Conclusion

30. The proposal would constitute inappropriate development in the Green Belt and would harm openness. As such, the Framework requires that the harm by reason of inappropriateness be given substantial weight, and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. The other considerations in this case are not sufficient to comprise the very special circumstances necessary to justify this development, which is contrary to Core Policy 2 of the CS and the Framework, where they seek to protect the Green Belt.

³ APP/M2270/X/21/3288739

31. I conclude that 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. The appeal is therefore dismissed.

A Knight

INSPECTOR