



Appeal Decision

Site visit made on 21 May 2025

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th June 2025

Appeal Ref: APP/G2245/W/24/3357122

Cedar Lodge, Wood Street, Swanley, Kent, BR8 7PA

- 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 Mrs C Laherty of The Bland Family Freehold against the decision of Sevenoaks District Council.
 - The application Ref is 24/02390/FUL.
 - The development proposed is erection of a single detached dwelling and car barn.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a single detached dwelling and car barn at Cedar Lodge, Wood Street, Swanley, Kent, BR8 7PA in accordance with the terms of the application, Ref 24/02390/FUL subject to the conditions in the attached schedule.

Main Issues

2. The main issue is whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2024 (the Framework) and any relevant development plan policies.

Reasons

3. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that inappropriate development is harmful to the Green Belt. Development in the Green Belt is inappropriate, and thus should be approved only if very special circumstances exist, unless they come within one of the categories in the closed list of exceptions in the Framework.
4. The definition of Grey Belt in the Framework includes land that does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. These purposes are a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; and d) to preserve the setting and special character of historic towns.
5. The parties agree that the site is part of Swanley Village. This is a small settlement that is washed over by the Green Belt. It is to the north east of Swanley, a large built up area and the South East of Hextable, a smaller settlement. The appeal site is a small parcel of land at the eastern part of the village set away from the closest part of the gap between settlements. Whilst parts of Swanley Village and its surroundings are clearly important in maintaining the separation between these

two settlements, given its size and location the appeal site does not strongly contribute to purpose 143b). Swanley Village is separate from the larger settlement of Swanley, and therefore the site does not check the unrestricted sprawl of large built up areas, nor is there evidence that the appeal site makes any contribution to preserving the setting and special character of historic towns.

6. There is nothing before me to suggest that the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development, and as such the site meets this part of the definition of Grey Belt land. Consequently, the land is Grey Belt for the purposes of the Framework.
7. In order to benefit from the exemption to inappropriate development relevant to grey belt land in paragraph 155 of the Framework, the proposed development must not fundamentally undermine the purposes of the remaining Green Belt land, there must be a demonstrable need for the type of development proposed and it must be in a sustainable location. The appeal scheme is not major development involving the provision of housing and therefore paragraph 155d) relating to the Golden Rules would not be relevant.
8. The parties agree that the site is within Swanley Village, consequently the appeal scheme would not result in residential development encroaching into the countryside. Whilst the appeal scheme would not assist urban regeneration, given the small scale of the site and development proposed, it would not fundamentally undermine this purpose of the Green Belt. Therefore, taken together with my conclusions against the site's contribution to purposes a), b) and d) above, the proposed development would not fundamentally undermine the purposes of the Green Belt across the area of the plan.
9. The Council do not have a 5 year supply of deliverable housing sites. The Five-Year Supply Statement (April 2023) identifies a 3.9 year supply with a subsequent appeal decision agreeing a position of a 3.46 year supply (APP/G2245/W/24/3342128, APP/G2245/W/23/3331236). It is put to me that this is likely to decrease based on the standard method set out in the Framework. The latest housing delivery test results also show a measurement of 44%. As such there is a demonstrable unmet need for the provision of housing proposed.
10. The appeal site is within Swanley Village where there are some services and facilities a short distance away, with a larger range of amenities in nearby Swanley. I have taken into account that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Based on the evidence before me in this case, the development would be in a sustainable location.
11. Consequently, the proposed development would meet the exception under paragraph 155 and would not be inappropriate development in the Green Belt. therefore, there is no requirement to go on to consider whether it would meet any other exceptions. The effect on openness is already taken into account in this exception and there is no need to assess the impact of this further, nor whether very special circumstances exist. As such, in this regard, the development would be in accordance with the Framework.

Other Matters

Living Conditions

12. There are main windows to the side elevation of the adjoining property at Cedar Lodge, and a single storey conservatory with a skylight extends to the south. To the side elevation of the proposed dwelling, all first floor windows facing North could be obscure glazed and the side elevation of the proposed rear balcony could also be screened which could be secured by condition. The closest first floor non-obscured window would be to the rear elevation and over 14m away with only a peripheral view towards the Cedar Lodge and its garden area. Any views from ground floor windows would be obscured by boundary treatment and this, along with the proposed site levels, could also be secured by condition. There would be additional views across the fields to the front of the proposed house, however given their existing use and open nature, this would not be unacceptably harmful to privacy. As such there would not be a harmful level of overlooking.
13. The majority of the footprint of the proposed dwelling would be further east than that of Cedar Lodge, and taking into account the separation distance between the properties the direct outlook from the existing windows would remain suitably open and well lit. Furthermore, the details of hard and soft landscaping could be secured by condition to ensure that the proposed boundary would not be harmful in these regards. Any private rights to light would be dealt with under legislation separate to planning.
14. There would be noise and disturbance during construction and this is also a concern with reference to the nearby animals. However, this would be temporary, and a condition is attached requiring a construction environmental management plan which would mitigate these effects.
15. Representations were made to the effect that the rights of the adjoining occupier under Articles 1 and 8 as set out in the Human Rights Act 1998 would be violated if the appeal were allowed. The decision above concludes that the effects of the development would not be harmful to the living conditions of nearby occupiers. I am satisfied that a grant of planning permission would not unacceptably interfere with the occupier's right to peaceful enjoyment of their possessions or a private and family life and home. It is proportionate in the circumstances to allow the appeal.

Biodiversity Net Gain (BNG)

16. This application would be subject to the statutory pre-commencement condition to deliver at least a 10% increase in biodiversity value which would require the determination of a Biodiversity Gain Plan. The appellant's BNG feasibility assessment sets out that achieving BNG on site is unrealistic, therefore BNG targets should be met through off-site habitat creation and enhancement, which would be likely to be secured via a legal agreement. There are some queries regarding the location of the off-site area referred to in the submissions and whether mitigation areas for protected species have been counted towards BNG. Nevertheless, it is clear that off site gains would be required.
17. Whilst detail such as any potential planning obligation has not been submitted at this stage, the final agreement would be needed for the Biodiversity Gain Plan. In the circumstances of this case and taking into account the scale of the

development proposed, the information at this stage is sufficient to conclude that the biodiversity condition is likely to be capable of being successfully discharged.

Swanley Village Conservation Area (CA)

18. The site is within the CA. Its significance derives from its character as a Kentish rural hamlet with a well defined village boundary, sense of rural isolation, mix of historic buildings that reflect the incremental development of the village and traditional craftsmanship in original building materials and architectural features, amongst other things. I have visited the appeal site, and I agree with the appellant's consideration of Heritage Impacts and the Council, that there would be no harm to the character or appearance of the conservation area.

Conditions

19. I have had regard to the planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents.
20. The standard implementation condition is attached and in the interests of certainty a condition to define the plans with which the scheme should accord. Conditions requiring samples of materials, details of hard and soft landscaping and the implementation of tree protection measures are needed in the interests of the character and appearance of the area, and for the landscaping condition also with regard to neighbouring living conditions as set out above. The tree protection measures are pre commencement as they would be required for the full duration of the development.
21. Conditions to secure that certain windows are obscure glazed, screening to the balcony and a construction environmental management plan are also included for the living conditions of residents, as set out in the main body of the report. The latter is also for highway safety reasons and this is a pre commencement condition as the measures would be required for the full duration of the development. Details of the proposed site levels are required in the interests of the living conditions of neighbours. These would be implemented prior to development above slab level taking place, and therefore this is a pre commencement condition.
22. A Construction Ecological Management Plan (CEcMP), details of biodiversity enhancement, non-native species eradication strategy, details relating to a Great Crested Newt (GCN) District Level Licence and of any lighting to be installed are needed in the interests of biodiversity, and in the case of the latter also the character and appearance of the area. The CEcMP, eradication strategy and GCN licence are pre commencement conditions as the measures are required for the full duration of the development and to be implemented prior to development taking place.
23. Details of cycle parking are needed to promote sustainable transport modes and a condition for the implementation of car parking is included in the interests of the highway network and highway safety. However, the installation of electric vehicle charge points in new homes is covered by building regulations and as such a condition requiring this provision would not be necessary, and it has not been included.

24. Due to the existing and previous uses of the site there is a risk of contaminated land. Consequently, conditions for a survey, investigation, remediation and verification if required as well as a condition relating to contamination that was not previously identified are necessary in the interests of pollution, safety, and the living conditions of residents. The former condition is pre commencement as these measures are required to be implemented prior to the development taking place.
25. A scheme for surface water drainage is needed in order to ensure that the development would not increase flood risk on or off site. The submission of these details is a pre commencement condition as these are required to be implemented prior to development above slab level taking place. However, Thames Water do not raise any site specific issues regarding foul drainage, and therefore the submission of these details would not be necessary or reasonable in this case and a condition to this effect has not been included.

Conclusion

26. For the reasons given above the appeal should be allowed.

H Miles

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: DHA/33016/01, DHA/33016/03, DHA/33016/04 Rev A, DHA/33016/05, DHA/33016/06 and DHA/33016/07.
- 3) Prior to the commencement of the development, a phased contaminated land investigation of the site shall be submitted to and approved in writing by the local planning authority and carried out in accordance with the approved details. This shall comprise of a) a phase 1 desktop contamination study and, if so identified, b) a phase 2 (intrusive) contamination investigation and c) a remediation strategy. On completion of all remedial works and any soil importation, the applicant shall submit d) a verification report demonstrating that all remedial works were undertaken to an appropriate standard. The verification report shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development. The development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of the development, tree protection measures shall be installed in full accordance with the details contained within the submitted Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (produced by PJC Consultant Ltd and dated 3 September 2024). Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials and debris. The protection measures shall remain in situ throughout the duration of the demolition and construction processes and the development shall be carried out in accordance with the working methods set out in the method statement.
- 5) Prior to the commencement of the development, details of a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following details: the routing of construction and delivery vehicles to and from the site; parking and turning areas for construction and delivery vehicles, plant, machinery and site personnel; timing of deliveries; provision of wheel washing facilities; details of proposed working and delivery hours; a site waste management plan; and details of how noise, vibration and dust shall be controlled during the construction period. The development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of the development, a Construction Ecological Management Plan (CEcMP) shall be submitted to and approved in writing by the local planning authority. The CECMP shall be based on the recommendations set out in the Preliminary Ecological Appraisal (produced by PJC Consultancy Ltd and dated 21 August 2024). The development shall be carried out in accordance with the approved details.
- 7) Prior to the commencement of the development, details of existing and proposed finished site levels, finished floor levels and finished external surface levels shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details.

- 8) Prior to the commencement of the development, a scheme for surface water drainage shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) Prior to the commencement of the development, a non-native species eradication strategy produced by a suitably qualified specialist shall be submitted to and approved in writing by the local planning authority. The strategy shall detail the containment, control and removal of Japanese knotweed on-site. The development shall be carried out in accordance with the approved details.
- 10) Prior to the commencement of development, evidence that the full Great Crested Newt District Level Licence conservation payment has been made to Natural England and the licence issued, shall be submitted to and approved in writing by the local planning authority.
- 11) Prior to the commencement of development above the damp proof course, details including specifications and samples of the external materials and finishes of the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 12) Prior to the first occupation of the development, full details of both hard and soft landscaping, including details of any hard surfacing and boundary fencing, shall be submitted to and approved in writing by the local planning authority. The approved hard landscaping scheme shall be implemented prior to the first occupation of the development hereby approved and the soft landscaping shall be implemented not later than the first planting season following the first occupation of the development.
- 13) Prior to the first occupation of the development, the parking spaces shown on drawing no. DHA/33016/03 shall be provided in full and shall be so retained and available for use as such at all times.
- 14) Prior to the first occupation of the development, full details of secure, covered bicycle parking facilities for the occupants of, and visitors to, the development hereby approved shall be submitted to and approved in writing by the local planning authority. These facilities shall be fully implemented and made available for users prior to the first occupation of the development hereby permitted and shall thereafter be retained for such use at all times.
- 15) Prior to the first occupation of the development, a detailed plan(s) showing how the development shall enhance biodiversity shall be submitted to and approved in writing by the local planning authority. The submitted details shall include a detailed landscaping plan, future management measures, detail on ownership and responsibilities of the outlined management measures, native and wildlife-friendly planting, and integrated durable features for wildlife. The approved measures shall be implemented and retained thereafter.
- 16) No external lighting shall be installed on the buildings or within the curtilage of the site other than in accordance with an external lighting design plan which shall first have been submitted to and approved in writing by the local planning authority. The plan shall show the type and locations of external lighting and shall demonstrate how the lighting has been designed to

minimise light spillage and impacts on protected species. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and shall be retained as such thereafter.

- 17) Notwithstanding the approved drawings, prior to the first occupation of the development, the first floor windows in the northern elevation of the dwelling shall be glazed with obscure glass of no less than obscurity level 3 and permanently fixed shut, unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and shall be retained as such thereafter.
- 18) Prior to the first use of the balcony serving the new dwelling, details of a privacy screen along the northern side of the balcony, not less than 1.7 metres above the floor level of the balcony, shall be submitted to and approved in writing by the local planning authority. The screen shall be installed in accordance with the approved details prior to the first use of the balcony and retained as approved thereafter.
- 19) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved remediation strategy.