
Appeal Decision

Site visit made on 11 September 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th October 2025

Appeal Ref: APP/K3605/W/25/3364536

Roe Park, Hunters Lodge, Horsley Road, Downside, Cobham, Surrey KT11 3NY

- 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 S & Mrs P Hunt against the decision of Elmbridge Borough Council.
 - The application Ref is 2024/2592.
 - The development is described as Erection of two single storey detached dwellinghouses, with associated hard and soft landscaping, following demolition of existing building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal determination, the Council submitted an appeal decision for Land at Hunters Lodge (PINS Ref: APP/K3605/W/25/3359096), which is very close to the appeal site. I have considered its acceptance in line with the Planning Inspectorate's Procedural Guide (2025) and the *Holborn*¹ judgment. As the decision was unpublished when the Council submitted its Statement of Case, I am satisfied that considering it causes no injustice. The appellant has also had the opportunity to comment on the Land at Hunters Lodge decision.

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework), and any relevant development plan policies;
 - the effect of the proposal on the openness and the purposes of the Green Belt; and
 - if the proposal is inappropriate development, whether 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 required to justify the proposal.

Reasons

Whether inappropriate development

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823

4. The appeal site is located within the Metropolitan Green Belt. It contains a disused agricultural building accessed via a straight private road, which also provides access to several nearby dwellings including a pair of semi-detached houses located immediately to the west of the appeal site. The site's rear boundary borders the rear gardens of houses on Downsvie Close.
5. Policy DM17 of the Elmbridge Local Plan Development Management Plan (2015) (DMP) states that within the Green Belt inappropriate development will not be approved unless very special circumstances are demonstrated which clearly outweigh the harm.
6. Paragraph 153 of the Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and should only be approved in very special circumstances. Paragraphs 154 and 155 identify specific exceptions where development within the Green Belt would not be considered inappropriate. The appellant contends that the proposal falls within three of these exceptions, which I assess below.
 - *The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces*
7. Policy DM18 of the DMP permits the replacement of buildings in the same use, provided the new structure is not materially larger than the one it replaces. This aligns broadly with paragraph 154 d) of the Framework albeit the policy incorporates additional local criteria. Specifically, proposals must not exceed a 10% increase in volume or footprint.
8. A recent prior approval (PA) decision confirmed that the building was last in agricultural use. The appellant indicates that this represents a 'fallback'. Whilst a planning condition imposed on the PA scheme has been discharged, construction related to it has not commenced. Consequently, the building, at present, remains in agricultural use.
9. The Council does not dispute that the new building would result in increases in both volume and footprint within the 10% threshold. However, as the proposal would involve a change of use from agricultural to residential, it would not involve the replacement of a building in the same use. Therefore, the exception under paragraph 154 d) of the Framework does not apply.
 - *Limited infilling or the partial or complete redevelopment of previously developed land*
10. Paragraph 154 g) of the Framework identifies an exception to inappropriate development in the Green Belt, where proposals involve limited infilling or the partial or complete redevelopment of previously developed land, including a material change of use to residential. Such development is not considered inappropriate provided it does not cause substantial harm to the openness of the Green Belt. Criterion c. of Policy DM17 of the DMP is broadly consistent with the Framework, albeit it outlines a number of specific considerations which apply to such proposals.
11. Annex 2 of the Framework defines previously developed land (PDL). It confirms that PDL excludes land that is or was last occupied by agricultural or forestry

buildings. Whilst a planning condition imposed on the PA scheme has been discharged, the building, at present, remains in agricultural use.

12. Consequently, based on the evidence before me, I do not find that the appeal site accords with the definition of PDL within the Framework. Therefore, the exception set out under paragraph 154 g) would not be complied with in this case.

- *Grey belt (Framework paragraph 155(a)-(d))*

13. The Framework defines 'grey belt' as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143, and excludes land where 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.
14. Under paragraph 155 of the Framework the development of homes in the Green Belt would not be inappropriate if four criteria are met. The main parties agree that the appeal site is grey belt, and that the proposal complies with criteria 155 a), b) and d). However, there is disagreement over the compliance with paragraph 155 c). This requires that, within the context of its rural location, the proposal would be in a sustainable location with particular reference to paragraphs 110 and 115 of the Framework.
15. The appeal site is physically distinct from the village of Downside, which is primarily focussed around a central green common. Travelling south along Horsley Road past the infant school, the sense of leaving the village is apparent, particularly as there are no accesses to residential properties for a significant stretch. Instead views along Horsley Road are predominantly of boundary hedgerows and trees, and open agricultural land to the west contributing to a more open, semi-rural character. Consequently, when viewed 'from the ground' the built form within Roe Park is dispersed from the village and there is not a discernible group of closely associated buildings along Horsley Road which would be expected within a village. I have been referred to an appeal decision² within the London Borough of Havering, where an Inspector found an appeal site, which was detached from a village by a field, to have the characteristics of a village location. Nevertheless, I have assessed the proposal based on my findings 'from the ground'.
16. During my site visit, I observed that Horsley Road is straight with relatively good visibility. However, it was heavily trafficked, with vehicles travelling at speed. The absence of street lighting, dedicated footpaths, and cycle lanes significantly reduces its suitability for walking or cycling, particularly outside daylight hours or in poor weather conditions. While the distance to Downside is not excessive, the nature of the route makes it an unattractive option for sustainable travel.
17. Downside offers a limited range of services, including a nursery, public house, village hall, sports and social club, chapel, and a large green space with childrens' play facilities. However, this provision, which does not for instance include a shop, is unlikely to meet the day-to-day needs of future occupiers, who would likely need to travel further afield for essential goods and services.

² PINS ref. APP/B5480/W/18/3200843

18. The Framework acknowledges that opportunities to promote sustainable transport vary between urban and rural areas. Nonetheless, it maintains the requirement to actively manage growth to support sustainable travel and prioritise non-car modes. In my view, the presence of other dwellings with similar accessibility constraints does not justify the proposal or demonstrate compliance with paragraph 155(c) of the Framework.
19. Cobham, which has a range of shops and services, lies approximately 2.5 km to the north. Effingham Junction, which has a mini-mart and train station is around 2.1 km to the south, whilst access to the M25 is also nearby. The distance from the train station makes it an impractical option for regular use without access to a car. Although a bus stop is located near the appeal site and serves Howard of Effingham School, other services operate infrequently, limiting their viability for daily commuting or access to wider shops and services.
20. The appellant highlights the Council's delegated report, which describes the appeal site as being in a 'reasonably sustainable location'. However, when focussing on the specific requirements of paragraph 155(c) of the Framework, the same report also concludes that the development would not be in a sustainable location.
21. I have been referred to several recent planning appeal decisions³ where Inspectors found that appeal sites across southern England were in sustainable locations, in accordance with the requirements of Paragraph 155 c). While consistency in decision-making is important, the circumstances in each proposal are likely to be different. Each development must be considered on its individual merits, and I have reached my conclusion based on the site specific circumstances of the appeal site. Furthermore, in determining the very recent nearby appeal at Land at Hunters Lodge the Inspector found that that appeal site would not be a sustainable location. In this instance, I have no reason to depart from that Inspector's reasoning on this matter.
22. The proposal would provide electric vehicle charging points. While the Framework encourages ultra-low and zero-emission vehicles as a sustainable transport mode, there is no mechanism to ensure future occupiers would use such vehicles. I acknowledge that the site access would be safe and the parking provision would comply with the relevant standards. Due to the small scale of the proposal, there would not be a significant impact on the transport network. However, for the reasons given, essential services, facilities and employment opportunities would not be readily accessible from the appeal site. Consequently, the appeal site is not within a sustainable location with particular reference to paragraphs 110 and 115 of the Framework.
23. Therefore, the appeal proposal would not meet the requirements of paragraph 155 of the Framework. Consequently, I find that the appeal proposal would be inappropriate development in the Green Belt.

Openness and purposes

24. Paragraph 142 of the Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.

³ PINS Refs: APP/R3650/W/24/3352222; APP/M3645/W/24/3347815; APP/V1260/W/24/3346415.

25. Openness of the Green Belt has a spatial as well as a visual aspect. 'Openness' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
26. The main parties agree that the footprint of the proposal would be 6% larger than the existing building and the volume would be 9.8% greater than the existing. The proposal's pitched roofs have a ridge height of 3.2 metres and an eaves height of 2.6 metres. This would be greater than the existing building's maximum ridge height of 2.76m. However, the proposal would be set 0.56 m below surrounding ground level.
27. Nevertheless, the effect of these increases would add additional floor area and volume to the built form within the appeal site. This would have a moderate harmful effect on spatial openness.
28. From a visual perspective, I accept that the building is located a significant distance from Horsley Road and would not be prominent in views from the road. The surrounding woodland, boundary screening to the rear of the appeal site and the existing houses on this side of Roe Park would filter more expansive views of the proposal's built form. As a result, I find that the limited visual effects would cause limited harm to visual openness.
29. Due to the increase in volume and footprint the proposal would still result in some encroachment of built development into the countryside, contrary to purpose c) of paragraph 143 of the Framework. Given the scale of the increases, I find that the conflict with purpose c) would be relatively limited.
30. Nevertheless, I conclude that the proposal would not preserve, and would have a moderately harmful effect on, the openness of the Green Belt. As such, the proposal would conflict with the provisions within the Framework which seek to preserve the openness of the Green Belt. Paragraph 153 states that any harm to the Green Belt should be given substantial weight.

Whether very special circumstances (VSCs) exist

- Whether a valid fallback exists

31. The appellant has secured PA for the residential conversion of the existing building for two dwellings, which they indicate represents a fallback (PA fallback). The parties agree that the PA fallback needs to be completed by the end of March 2026. In this regard, I understand that planning condition 3 of the PA scheme has been discharged.
32. The Council has queried the likelihood of the PA fallback being implemented, in part due to the layout of the proposed dwellings which would involve narrow living spaces, and relatively low floor to ceiling heights. However, this in itself is not a reason to discount the PA fallback as a realistic alternative.
33. The Council queries whether the PA fallback would meet Building Regulations. The appellant has provided evidence that compliance with Building Regulations in principle is demonstrated and that the appellant has chosen a building contractor to carry out the PA fallback works.

34. Having regard to all these considerations, I find that the approved PA fallback provides a valid fallback, which has a real prospect of being implemented. Therefore, the PA fallback is relevant and capable of being a material consideration.

- Effect of fallback vs appeal scheme

35. For significant weight to be afforded to a fallback position, there needs not only to be a reasonable prospect of it being carried out, but it would also need to be more harmful than what would be allowed by the proposal for which permission is sought.
36. The PA fallback would not result in an increase in the size of the existing building in footprint or volume terms. Indeed, it involves the removal of a rear extension which would result in a reduction in volume and footprint. In contrast, I have previously found that the proposal would increase the footprint and volume of built form within the Green Belt, which would cause harm to its openness. The harm by reason of encroachment in relation to the purposes of the Green Belt would be greater as a result of the appeal proposal than the PA fallback. Furthermore, the PA fallback would not be inappropriate development within the Green Belt.
37. The appeal proposal would provide two additional dwellings, as would the PA fallback. The appeal proposal would also provide economic and social benefits through the construction of the development and the additional contributions of the occupiers to support the local economy. However, the PA fallback demonstrates there is an alternative route to meeting these aims. I therefore attribute little positive weight to these factors.
38. The PA scheme would not provide a financial contribution towards affordable housing. In contrast, the appeal proposal would provide a financial contribution of £116,857.62. Despite complying with the 'Technical housing standards - nationally described space standard', the PA fallback would not provide particularly high quality living accommodation for prospective occupiers, compared to the appeal scheme. I afford these factors moderate weight in favour of the PA fallback.
39. Paragraph 153 of the Framework states that VSCs 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. In that context, for significant weight to be afforded to a fallback position it would also need to be more harmful than what would be allowed by the scheme for which permission is sought. Paragraph 153 of the Framework requires that substantial weight must be given to any harm to the Green Belt. For the above reasons, particularly the effect on openness, it follows that, on balance, the PA fallback is a less harmful alternative compared to the appeal proposal. Therefore, I give minor weight to the PA fallback.

- Additional VSCs

40. The appellant draws on a Planning Committee report from February 2025 which concludes that the Council has a housing land supply equivalent to 0.91 years. This is a very significant shortfall. The Council's draft Local Plan was submitted based on a brownfield only approach to housing delivery, with no Green Belt release. The submitted evidence indicates that the Local Plan Inspector was critical of that approach in the interim report to the Council, and it has been confirmed that the Council has withdrawn the submitted local plan from

examination. Overall, I attribute significant weight to the provision of two new dwellings as a benefit.

41. Furthermore, the Local Housing Needs Assessment (2020) identifies that the overall need within Elmbridge is for smaller homes (90% 1 to 3-bedroom units). The two proposed 3 bedroom dwellings would positively contribute towards the housing provision in the borough. However, the PA Fallback demonstrates there is an alternative route to meeting this aim. I therefore attribute little positive weight to this factors.
42. It has been put to me that the Green Belt Boundary Review 2016 is nearly ten years old, was carried out at a strategic level and as part of the preparation of a Draft Local Plan that has since been withdrawn. The appellant considers that the site performs as a None/Weak functioning part of the Green Belt and does not contribute strongly to any of the purposes of the Green Belt. Notwithstanding this, it is not disputed that the appeal site is within the Green Belt. I have found that the proposal would be inappropriate development in the Green Belt, would result in harm to openness and that it would offend purpose c) of the Green Belt, in terms of encroachment into the countryside, albeit in a limited manner.
43. The appeal scheme would provide a policy compliant financial contribution for off-site affordable housing of £116,857.62 and the appellant has provided a signed legal agreement to secure this contribution. Given the scale of the proposal and contribution I afford this moderate weight.
44. The appellant's Biodiversity Net Gain (BNG) Assessment shows that the proposal would result in an on-site gain of 3.67% in habitat units. In order to achieve the required minimum 10% net gain in biodiversity as a result of the proposed development, the provision of off-site compensation at an identified location which is on the national BNG register. This would be secured by the statutory BNG planning condition. Given the scale of the proposal, I afford this factor limited weight.
45. The development would have temporary economic benefits through the creation of construction jobs during the construction phase. The proposal's future residents would provide economic benefits through expenditure in local shops and services. Whilst limited due to the size of the proposal, these also weigh in favour of the development.
46. The appellant indicates that the design would incorporate the highest standard of sustainable design and construction, and energy efficient measures to ensure the scheme contributes to climate change mitigation. Given the scale of the proposal, these factors are afforded limited weight.

Other Matters

47. The appeal site lies within the zone of influence of the Thames Basin Heaths Special Protection Area (SPA), a European site protected under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations). The evidence before me confirms that the SPA is particularly vulnerable to increased recreational pressure from visitors.
48. Under Regulation 63 of the Regulations, where a proposal is likely to have significant effects on a European site, the competent authority must undertake an

Appropriate Assessment (AA). However, an AA is only required if the authority is minded to grant consent. In this case, I am dismissing the appeal due to identified harm to the Green Belt. Accordingly, an AA is not necessary, and I have not considered the proposed mitigation measures, including the financial contribution to the Strategic Access Management and Monitoring scheme outlined in the submitted unilateral undertaking, any further.

49. The proposed houses would meet the requirements of the 'Technical housing standards - nationally described space standard', and would have sufficient natural light and outlook, thereby providing high quality residential accommodation for future occupiers. Large private gardens would be provided.
50. The main parties agree that the design and density of the proposal would be acceptable given the character of the area. There would be no harm to the amenities of the neighbouring properties due to the separation distances and the modest size and scale of the proposed dwellings. Nor would there be highway safety or parking concerns or other planning concerns in relation to the proposal. However, compliance with the development plan in relation to issues such as design, quality of accommodation, amenity of neighbouring occupiers and highway safety are expectations for all development. These weigh neither for nor against the proposal and are therefore considered neutral in the planning balance.
51. The concerns expressed regarding the Council's conduct during the processing of the planning application fall outside of the remit of this decision.

Green Belt Balance and Conclusion

52. The proposal would constitute inappropriate development in the Green Belt which should not be approved except in very special circumstances. It would also not preserve, and would have a harmful effect on, the openness of the Green Belt. Substantial weight should be given to any harm to the Green Belt. This harm, together with the inappropriateness carries substantial weight against the proposal.
53. I have found that the PA fallback scheme would have a less harmful effect on the openness of the Green Belt than the appeal proposal. Furthermore, the PA Fallback would not be inappropriate development within the Green Belt.
54. The other considerations put forward in the case to which I have cumulatively afforded significant weight do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. Thus, the appeal proposal conflicts with Policy DM17 of the DMP and the objectives of the Framework which seek to protect the Green Belt.
55. The Council cannot demonstrate a five year housing land supply. Paragraph 11 d) of the Framework, in conjunction with footnote 7, states that planning permission should therefore be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. I find the totality of the Green Belt harm provides the strong reason for refusing the development proposed. Consequently, paragraph 11 d) ii of the Framework is not engaged.

56. The proposal would be contrary to the development plan and the Framework taken as a whole. There are no other material considerations which indicate that the decision should be determined other than in accordance with the development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR