



Appeal Decisions

Site visit made on 18 November 2025

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 07th January 2026

**Appeal A Ref: APP/R3650/C/24/3348184; Appeal B Ref: APP/R3650/C/24/3348185;
Appeal C Ref: APP/R3650/C/24/3348186**

Land at Hyde Orchards, Hyde Lane, Churt, FARNHAM, GU10 2LP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Sheena Billiald (Appeal A), Mr Mark Hooker (Appeal B) and Ms Hannah Brown (Appeal C) against an enforcement notice issued by Waverley Borough Council.
 - The notice was issued on 21 June 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission: I. The material change of use of the Land to a mixed use comprising agricultural and residential use. II. The erection of a building for agricultural purposes and its conversion to a Dwelling in the approximate position marked 'A' on the attached plan ('The Dwelling').
 - The requirements of the notice are: 1. Cease the mixed use of the Land comprising: i. Residential use. 2. Remove the Dwelling shown in the approximate position 'A' on the attached plan 3. Remove from the Land all materials resulting from the removal of the Dwelling.
 - The period for compliance with the requirements is: 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) (Appeal A only), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeals A, B and C Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - In paragraph 3 the deletion of the wording 'II: The erection of a building for agricultural purposes and its conversion to a Dwelling in the approximate position marked 'A' on the attached plan ('The Dwelling')';
 - In paragraph 5 the deletion of the wording 'Cease the mixed use of the Land comprising: i. Residential use.' and substitution with 'Cease the mixed use of the Land';
 - In paragraph 5 the deletion of the wording '2. Remove the Dwelling shown in the approximate position 'A' on the attached plan'; and
 - In paragraph 5 the deletion of the wording '3. Remove from the Land all materials resulting from the removal of the Dwelling.'
2. Subject to the corrections and variations, the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the Appeal A application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Notice

3. After issue of the notice, planning permission was granted on appeal¹ for an 'agricultural building' representing the operational development attacked by the notice. I therefore sought comments as to whether any injustice would result if I varied the notice to remove the allegation and requirements related to this operational development. No injustice was identified by the parties and, in my view, none would be caused. I shall vary the notice accordingly and, for clarity, shall also correct requirement 1 to delete reference to the 'residential use' having to cease as the requirement for the 'mixed use' to cease would achieve this aim.

The appeal on ground (a) and the deemed planning application (DPA) (Appeal A only)

4. The DPA relates to the development attacked by the notice (varied as indicated above) so is in respect of a material change of use (MCU) to a mixed use comprising agricultural and residential use.

Preliminary Matters

5. The revised National Planning Policy Framework 2024 ('Revised Framework') came into force during the course of the appeal. The parties were given an opportunity for comment and submissions made have been considered.
6. On 16 December 2025 the revised draft National Planning Policy Framework Consultation and an accompanying Written Ministerial Statement was published. These do not constitute Government policy or guidance but represent material considerations. Given that limited weight can be given to the draft 2025 Framework and its limited relevance in this case, while I have had regard to this, it has not been necessary to seek further representations.
7. The Appeal A appellant is the owner of the appeal site and the Appeal B and C appellants are occupants. The latter will be referred to as the 'appellant occupants'.

Main Issues

8. The main issues are:
 - Whether the MCU represents inappropriate development in the Green Belt and the effect on openness;
 - Whether the appeal site is a suitable location for the MCU, having regard to policy restricting residential development in the countryside;
 - The effect on the character and appearance of the area having regard to the site's location within the Surrey Hills National Landscape² (SHNL) and Area of Great Landscape Value (AGLV);
 - Whether acceptable living conditions are afforded to residential occupants;
 - Human rights of the site occupants and best interests of the children; and
 - If the MCU represents inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly

¹ APP/R3650/W/24/3336314 ('2025 Appeal')

² Previously Surrey Hills Area of Outstanding Natural Beauty

outweighed by other considerations such as to amount to the very special circumstances necessary to justify the development.

Whether inappropriate development and effect on openness

9. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Essential characteristics of Green Belts are their openness and permanence and inappropriate development is, by definition, harmful.
10. Per paragraph 154 of the Revised Framework, development in the Green Belt is inappropriate unless one of the listed exceptions applies. The LPA contends that none of the exceptions are applicable. The appellant contended that paragraph 154(a) applies, which refers to 'buildings for agriculture and forestry'. However, a building which is used as a rural worker's dwelling is primarily used for residential purposes and so not for agriculture.
11. While the MCU could potentially represent re-use of a building per the paragraph 154(h) exception³, this only applies to forms of development that preserve openness⁴ and do not conflict with the purposes of including land in the Green Belt. Residential re-use very likely results in increased comings and goings as compared to agricultural use, particularly during evening periods, as well as introduction of domestic paraphernalia such as refuse storage, clothes-drying facilities, garden furniture and play equipment. Much of the appeal site is fairly well-screened but comings and goings and associated parking near the road are visible from the public domain.
12. The MCU therefore has an adverse effect on openness and in the same way would represent encroachment into the countryside in conflict with paragraph 143 purposes. As such, the s154(h) exception does not apply and the MCU represents inappropriate development in the Green Belt. It conflicts with national policy in the Revised Framework and Policy RE2 of the LPP1 which cross references national Green Belt policy.

Whether a suitable location

13. Policy SP1 of the LPP1⁵ sets out a presumption in favour of sustainable development, leading into Policy SP2 which outlines the Council's Spatial Strategy. This seeks to ensure that development needs are met in a sustainable manner and directs development at the four main settlements, allowing for 'moderate levels' of development in specified 'larger villages'. It also permits 'limited levels' of development 'in/around' other villages including Churt, Frensham and Tilford. Only 'modest growth' is allowed 'in all other villages to meet local needs'.
14. Policy DM15 of the LPP2⁶ indicates that development should not be isolated from everyday services and facilities, with emphasis on maximising opportunities for walking/cycling and avoiding dependency on private vehicles. Supporting text references national policy exceptions related to isolated development including 'essential rural workers' homes'. Paragraph 84 of the Revised Framework similarly seeks to avoid isolated homes in the countryside unless specified circumstances

³ Which can extend also to associated uses of land such as garden/parking areas

⁴ including both visual and spatial dimensions

⁵ Waverley Borough Local Plan Part 1: Strategic Policies and Sites (2018)

⁶ Waverley Borough Local Plan Part 2: Site Allocations and Development Management Policies (2023)

apply, including where there is an essential need for a rural worker to live permanently at/near their place of work.

15. The appellant references Policy DM16 which relates to dwellings for rural workers where 'there is a functional need for a rural worker to live permanently at or near their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise, and there are no existing suitable dwellings nearby'. As regards proposals for permanent dwellings, this policy indicates that the business must have been established for a minimum of three years and represent 'a financially sound means to support the worker'.
16. The LPA's position is that the appeal site is located in the open countryside and is remote from any settlement. The appellant highlights that the appeal site is located in the Ward of Frensham, Docketfield and Tilford and in the parish of Frensham. It is contended also that the site could be deemed 'in and around' a Policy SP2 specified village.
17. In my view the appeal site is isolated in the terms of paragraph 84 of the Revised Framework. While there are a small number of scattered dwellings fairly nearby, these are too few and dispersed to form a grouping of housing or rural settlement. The site is also significantly distant from the main built-up area of Churt, which is around a 35 minute walk, and from Beacon Hill, which is some 25 minutes on foot. The villages of Frensham and Tilford are also significantly distant at some 3-4 miles north. The site is also not therefore 'in/around' a village specified in Policy SP2 or within/close to any other settlement.
18. As to accessibility, the appeal site is around a twenty minute walk from bus stops providing a service to and from the nearest main settlements which offer a broad range of services and facilities. A more limited range of services and facilities in the settlement of Beacon Hill are around a 30 minute walk. However, the part of the route to reach these along Tilford Road would not be inviting for pedestrians given the distance that would be walked without any pavement. The alternative route via a public footpath would be a largely unlit and secluded route which would significantly deter use of this after dark. Residential occupants of the appeal building are thus likely heavily reliant on private vehicle use.
19. As regards Policy DM16, the appellant submits that it is necessary to have a permanent presence on site to care for livestock, highlighting animal welfare and financial implications of emergencies not being dealt with quickly. A need for a security presence is cited with reference to expensive tools and machinery and hazardous items, along with long hours worked in the farm shop. It is contended also that the appellant needs to live on site for the business to remain viable.
20. I have though no detailed information justifying why livestock or security issues necessitate a permanent presence on site. No detailed business or financial information is provided such as to substantiate the appellant's viability claim and to justify a permanent dwelling.
21. The appellant cites also other planning permissions⁷ granted for residential development around 0.5 miles north of the of the appeal site. It is contended that these were essentially granted on the basis that those sites were in a sustainable location in assessment against Policy SP2.

⁷ Refs: WA/2017/1962 (Churt Place Nursery Permission); WA/2021/1985 (Foxfield Permission)

22. However, planning decisions are necessarily determined on their own merits. As regards the Churt Place Nursery Permission, the majority of this site represented brownfield land and so achieved Policy SP2 compliance in this respect. As to the Foxfield Permission, this complied with policy related to a re-use of redundant/disused buildings resulting in an enhancement to their immediate setting. The Officer Report comment related to the sustainability of the location was in the context of the site not being isolated from other dwellings; it was acknowledged that the site was 'relatively remote from services'.
23. Drawing these matters together, the appeal site does not constitute a suitable location for the MCU, having regard to policy restricting residential development in the countryside. There is a failure to comply with development plan policy and national policy as detailed.

Character and appearance

24. Policy DM15 of the LPP2 indicates that development in rural areas should recognise the natural beauty and undeveloped character intrinsic to the open countryside and respect patterns of development. Policy RE3 of the LPP1 states that new development must respect the distinctive character of the landscape, seeking to protect the character and qualities of the SHNL and AGLV. Policy DM4 of the LPP2 strives to ensure that new development reinforces local distinctiveness and landscape character.
25. Paragraph 189 of the Revised Framework states that great weight should 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. Relevant authorities in exercising or performing any functions in relation to National Landscapes must seek to further the statutory purpose of conserving and enhancing the natural beauty of these areas.
26. The appeal site is located on former agricultural land within a farm setting falling within the SHNL and AGLV. Part of the distinctive character of the surrounding landscape is derived from a patchwork of scattered settlements and small-scale farmed landscape. While the Council's AONB advisor expressed no concern as to the presence of the appeal building in use for agricultural purposes, it has a different presence as a dwelling, which over time very likely would result a significant presence of domestic paraphernalia as detailed above.
27. The rear of the site is well screened but the presence of vehicles parked in association with the dwelling is likely to occur close to the road, and there remains potential for domestic paraphernalia to be sited in areas that would be visible from the public domain. It is probable also that residential use would see an increase in the use of artificial lighting after dark, harming the sense of rural tranquillity.
28. The domestication of the appeal site is at odds with the farm setting and rural environment and while public views are localised, there is harm to the immediate setting and to the natural beauty of the surrounding landscape. The MCU has a materially harmful effect on the character and appearance of the area having regard to the site's location within the SHNL and AGLV. There is conflict thus with development plan policy outlined and with Revised Framework paragraph 189.

Living conditions

29. LPP2 Policy DM1 seeks to avoid significant harm to the amenity of occupants of new development and LPP1 Policy TD1 strives to ensure provision of private amenity space and appropriate internal space standards.
30. LPP2 Policy DM5 stipulates that all new housing developments should provide adequate internal and external space, meeting as a minimum the Government's Technical Housing Standards⁸ and providing a private, useable, secure and appropriately located garden space. There is nothing to suggest that new housing created from a conversion would be exempted from this policy.
31. The Officer's report authorising enforcement action indicates that the appeal dwelling has an internal floor area of some 65 sqm (with the ground floor at around 42.5 sqm and some 22.5 sqm at first floor level). The report indicates that 'Having one bedroom for 4 people is in conflict with space standards' and comments that there is 'no established curtilage' and so no appropriate garden space.
32. As regards internal space, at the time of my site visit, the upper floor contained two separated rooms, both containing beds. There is not therefore a breach of the Technical Housing Standards as regards the number of bedrooms as against the number of occupants. However, the internal floor area falls well below the 79sqm minimum stated in the Technical Housing Standards for a two bedroom, four person two storey dwelling. The internal space provision is thus significantly substandard.
33. As to external amenity space, while I appreciate that the appeal site could accommodate an adequate area of garden, this would have consequential adverse effects on the character of the surrounding landscape as this would increase the domesticating presence of the dwelling.
34. The appellant suggests that measures can be secured by conditions to overcome harm identified in respect of living conditions afforded to occupants. However, there is no clarity as to how the substandard internal space area could be overcome by condition. I find then that acceptable living conditions are not afforded to residential occupants, with a resultant policy conflict as described.

Human Rights and Best Interests of the Children

35. I have had regard to the rights of the appellant occupants and their children under Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998. Article 8 affords the right to respect for private and family life and home including the best interests of the children.
36. The best interests of the children is a primary consideration. No other consideration can be inherently more important than the need to safeguard and promote their welfare. The appellant draws my attention to historic health issues and other strains and outlines that one of the child occupants is happily settled in a local school. It is contended that the appeal dwelling represents the safest, most cost effective and healthiest form of accommodation available to the family, the latter having apparently been agreed by health professionals. Comment is also made as to benefits stemming from proximity to family, work, doctors and school.

⁸ Technical Housing Standards – Nationally Described Space Standard (2015)

37. The appellant submits that no suitable housing is available from the Council and that the Council's Housing Department is in support of the residential occupation of the appeal building and has indicated that the only other accommodation available would be emergency hotel rooms.
38. I have though no detailed information in support of the contention that there is an absence of other suitable accommodation if it were necessary for the family to vacate the dwelling. I have also found that the accommodation afforded by the appeal building is significantly substandard. On the available evidence, the best interests of the children would not be served by granting planning permission.
39. As regards Article 8 otherwise, this is a qualified right, and interference may be justified where that is lawful and in the public interest. I will therefore return to this in my balancing below to consider whether dismissal of the appeal would have a disproportionate effect on the appellant occupants and their family.

Other considerations

40. The LPA acknowledges that it is unable to demonstrate a five-year housing land supply, most recently referencing a 1.28-year supply, which indicates a very serious shortfall. The appellant emphasises a long history of underdelivery and the historic importance of small windfall sites in contributing to supply, by reference to the Council's Five Year Housing Land Supply Position Statement⁹.
41. Other appeal decisions where housing contribution in the context of underdelivery was sufficient to outweigh an in-principle objection to housing in the Green Belt offer very little weight in support of the MCU since decisions necessarily turn on the particular circumstances of the case. For example, as regards the Buckinghamshire appeal decision¹⁰, there was a semi-urban context to large parts of the site in contrast to the rural surroundings in this case.
42. Nonetheless, the provision of a single unit of residential accommodation does offer more weight in the balance in the context of such significant underdelivery. There would also be some support to the local economy from occupants making use of services and facilities. While I appreciate the acclaim and charity work connected to the appellant's business, in the absence of any evidence that the appeal dwelling is necessary to ensure viability, I cannot afford this any significant weight.

Other Matters

43. The LPA references intentional unauthorised development but given the extenuating circumstances as regards the appellant occupants being homeless at a late stage of pregnancy, this aspect does not materially weigh against the appeal development.
44. The LPA's reasons for issuing the notice reference that the energy efficiency of the building is unknown and, as regards climate change and sustainability, that information supporting 'proportionate measures' had not been provided. While the appellant has not submitted detailed information on these, given the flexibility within the relevant policies, compliance could likely be achieved by condition.

⁹ Published November 2024

¹⁰ Ref: APP/X0415/W/22/3303868

Planning balance

45. Per paragraph 153 of the Revised Framework, inappropriate development results in definitional harm to the Green Belt which should not be approved except in very special circumstances. For 'very special circumstances' to exist, the harm by reason of inappropriateness and any other harm resulting from the appeal development must be 'clearly' outweighed by other considerations.
46. As to the harms then, in addition to definitional harm, there would be harm to openness. Each of these harms carry substantial weight against the appeal development. I found also that the development has a materially harmful effect on the character and appearance of the surrounding area, having regard to the site's location within the SHNL and AGLV. Per paragraph 189 of the Revised Framework, great weight is accorded to conserving landscape and scenic beauty in the SHNL.
47. I also found that the appeal site does not constitute a suitable location for the appeal dwelling, having regard to policy restricting residential development in the countryside and that the appeal dwelling does not afford adequate living conditions to its occupants.
48. Turning to the benefits of the MCU, this would offer a unit of residential accommodation in the context of a history of underdelivery and serious shortfall. The principle of the best interests of the children does not point towards the granting of planning permission but nonetheless, the appellant occupants are currently living in the dwelling with their family and have a strong personal desire to remain. There are associated human rights implications, which I have taken into consideration.
49. However, on the particular facts here, the considerations in support of the appeal development do not, either on their own or in combination, clearly outweigh the harm to the Green Belt and the other harms identified. As such, they do not amount to very special circumstances. Interference with Article 8 rights would be proportionate and justified and in the public interest.
50. As such, while the LPA cannot demonstrate a five year supply of deliverable housing sites, policies of the Revised Framework protecting the Green Belt provide a strong reason for refusing to grant planning permission for the appeal development in accordance with paragraph 11(d)(i) of the Revised Framework.
51. I am mindful of potential changes in Green Belt policy in the draft 2025 Framework indicating re-uses of buildings in the Green Belt as not representing inappropriate development irrespective of openness effects. However, even if the MCU did not represent inappropriate development, the limited benefits of a substandard single dwelling in the countryside, even in the context of significant underdelivery, would be significantly and demonstrably outweighed by the adverse effects outlined above when assessed against the policies in the Framework taken as a whole. I note also that the draft 2025 Framework continues to restrict isolated homes in the countryside and there is no demonstration or even suggestion that the re-use here relates to a redundant or disused building. As such, my conclusions would not be altered in any event.

Protected habitats and species

52. The appeal site is located within buffer zones of the Special Protection Areas of East Hants, Wealden Heaths I and Wealden Heaths II, as well as for the Wealden

Heaths I Special Area of Conservation. Since I intend to dismiss the appeal for other reasons, there is no need to consider these matters.

Conclusion on ground (a) and the DPA

53. The appeal development conflicts with the development plan, read as a whole and with national policy for the reasons outlined. No material considerations raised warrant a decision other than in accordance with the plan. The appeal fails on ground (a) and planning permission will not be granted in respect of the DPA.

The appeal on ground (f) (Appeals A, B and C)

54. This ground of appeal is that the notice requirements exceed what is necessary. There are two purposes which the requirements of a notice can seek to achieve (i) to remedy the breach which has occurred; and (ii) to remedy an injury to amenity caused by the breach. The fact that the notice (as proposed to be varied above) requires the mixed residential and agricultural use to cease indicates that its purpose is to remedy the breach.
55. The appellants only submission on this ground was that if the building was required to be removed (as the notice was originally drafted), that the foundation slab of the building be allowed to be retained. This submission has fallen away in view of my proposed variations. The ground (f) appeal therefore does not succeed.

The appeal on ground (g) (Appeals A, B and C)

56. The appeal on ground (g) is that the period for compliance (12 months) falls short of what is reasonable. The appellants request 36 months, with reference made to the housing crisis, upheaval for the family, financial costs as well as the appellant occupants' obligations including working full-time on the farm, looking after their young family and attending to the future of the shop, livestock and farm.
57. While I note comments as to discussions with the Council's housing department as regards alternative accommodation, I have no detailed evidence to indicate why the stated difficulties would render the 12 month compliance period unreasonable. In my view, this would offer a reasonable period within which to cease the use and seek alternative accommodation. The ground (g) appeal accordingly fails.

Appeals A, B and C Overall Conclusion

58. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the Appeal A application deemed to have been made under section 177(5) of the 1990 Act (as amended).

V Bond

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/R3650/C/24/3348184	Mrs Sheena Billiald
Appeal B	APP/R3650/C/24/3348185	Mr Mark Hooker
Appeal C	APP/R3650/C/24/3348186	Ms Hannah Brown