



Appeal Decision

Hearing held on 13 March 2013

Site visit made on 2 April 2013

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 May 2013

Appeal Ref: APP/C3620/A/12/2188330

The Bungalow, Kiln Lane, Brockham, Betchworth RH3 7LZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Paul Hunt Investments Ltd against the decision of Mole Valley District Council.
 - The application Ref MO/2012/0973/OUTMAJ, dated 11 July 2012, was refused by notice dated 19 July 2012.
 - The development proposed is outline application for the consideration of access in respect of the erection of 45No dwellings.
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Decision

1. I dismiss the appeal.

Main Issues

2. It was agreed at the Hearing that the proposal is for inappropriate development in the Green Belt, and that the Agreement submitted overcame the fourth reason for refusal. The main issues are therefore;
 - The effect of the development on the character and appearance of the area including the openness of the Green Belt and the purposes of including land in the Green Belt.
 - The effect of the development on the supply and allocation of housing land.
 - Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify inappropriate development.

Reasons

Green Belt, Character and Appearance

3. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, as stated in paragraph 87 of the National Planning Policy Framework. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Before considering whether very special circumstances exist, it is necessary therefore to consider whether there is any other harm.
4. The application is in outline with access only for consideration in addition to the principle of development. However, it appears that development of the site

could occupy areas similar in extent to that shown on the indicative layout, allowing for the site constraints and the need for vehicular circulation from the single access. The precise arrangement of built form and its distribution on the site is for the reserved matters stage, but the appellant's statement that the highest ridge would be no higher than that of the existing bungalow is acknowledged.

5. The site is a prominent open area of land, with the bungalow to the west and the buildings to the east being, due to their location, visually associated more with the adjoining development than with the bulk of the field which is open and undeveloped. The situation of the Nutwood Avenue development is unusual, being depressed into the former clay workings, which reduces its prominence in wider views but the two storey dwellings are, nevertheless, evident in close views. It is clear from the topography of the site, being more 'domed' than 'depressed' that the development would have a profound and serious adverse effect on openness. The Framework makes clear in section 9 on protecting the Green Belt that the essential characteristics of Green Belts are their openness and their permanence.
6. There are trees along the southern boundary of the rugby field and when in leaf, and to an extent otherwise, they do block or filter through views, but it is the raised nature of the site that makes this a prominent open area of land and not one that appears to be 'in the middle of a village' as asserted by the appellant. There would be intrusion of buildings and their roofs into the skyline as viewed from the periphery of the site and from further afield, as well as a likely tiered nature of built form, some appearing above others.
7. Looking at the purposes served by the Green Belt;
 - *To check the unrestricted sprawl of large built-up areas;* Brockham is not a large built up area and there is no real evidence of sprawl requiring to be checked.
 - *To prevent neighbouring towns merging into one another;* The definition of 'town' and the risk of merging is not appropriate, but the visual linking of the low density development to the west with that to the east would cause harm to the character and appearance of the area through the consolidation of built form across the width in views from the rugby field and beyond. There would be a similar visual connection between the two areas in other closer views from the local footpath and the Greensands Way.
 - *To assist in safeguarding the countryside from encroachment;* The site is between two areas of built development with the rugby club premises and car park on the third side, but the limited link at the south east corner to the open land across the river is all the more important by reason of its limited extent. The site performs an important role as a finger of undeveloped land linking the rugby fields and the open land and Area of Outstanding Natural Beauty beyond, with the open land to the south and east. That importance is evident in views from the Box Hill viewpoint and that part of the escarpment leading east, as the appeal site shows as part of patchwork of open space running away from the viewpoint. The existing sporadic development within the Green Belt to the west along Kiln Lane to Brockham Lane is not prominent, with the grass in front of the bungalows visible. The Nutwood Avenue area is hardly seen and would be less so when the trees are in leaf. It is however acknowledged that this is a distant

view that takes in much built form including The Borough area and development of the appeal site, whilst bringing about change, would likely pass unremarked amongst the wide ranging sweep of predominantly rural land from such distant views.

- *To preserve the setting and special character of historic towns;* This does not apply and the presence of the conservation area nearby is of minimal weight in this respect.
- *To assist in urban regeneration, by encouraging the recycling of derelict and other urban land;* Limited weight can be attached to this in view of the apparent need to consider Green Belt land in order to meet housing need. This will be weighed in the balance in the last main issue.

Therefore, the proposed development would compromise the purpose of the Green Belt in respect of encroachment. Whilst just one of the five purposes, substantial weight is attached to this failing in this instance as the site represents an important linkage having countryside attributes, between two areas of open land. That to the north is continuous with the escarpment and that to the south extends a significant way beyond the village. The sunken nature of the Nutwood Avenue area adds to the impression of this being along the edge of the built-up area.

8. However, whilst being in the Green Belt and consideration of the purposes of the Green Belt are important matters, separate weight attaches to the effect on the character and appearance of the area. The site is bounded on all sides by accessible areas; footpaths and the road, and serves an important function in separating parts of the village and providing a boundary to differing forms of development. It may be that development of the site could mediate between the various areas and provide a transition, but the part that the open site plays in the structure of the village and its various parts would be lost. The setting of the paths bordering the site would be reduced in quality and the continuity between the rugby field and the open river valley, referred to with regard to the long views and encroachment, is clearly evident in traversing the footpaths. This aspect of the area is not a static experience, as the 'dome' of the site prevents through views, but is an important part of the experience of walking the paths that would be lost.
9. Lastly in this main issue, the Council refers to views from the site and surroundings, of the Area of Outstanding Natural Beauty and the escarpment. Whilst there is no policy support for the protection of a view into such designated areas, it is clear that the view is an important part of the experience of using the footpaths and weight does attach to the possibility of losing aspects of this public view.
10. In conclusion, there is substantial harm proposed to the Green Belt through the loss of openness to which should be added the adverse effect on the purpose of preventing encroachment. In addition there would be significant harm caused to the character and appearance of the area as seen from important public viewpoints and experienced by users of footpaths. The development would fail to accord with Policy CS13 of the Core Strategy as it would not respect the character and distinctiveness of the landscape. The Framework makes clear the need to contribute to protecting and enhancing the natural environment.

Preparation of the Land Allocations Development Plan Document

11. It appears to be common ground that Green Belt land will have to be considered as locations for housing to address the need. That process has progressed with the publication of the '*Green Belt Boundary Review 2013 – Consultation Document*'. Seven areas are identified with regard to Brockham, and this reflects the somewhat fragmented form of the area and the arrangement of built form and Green Belt. There are three areas not within the Green Belt; a distinct area of Nutwood Avenue, the distinct area of The Borough and the tightly drawn but more extensive area of the main village south of the river. Of the seven areas of consideration, two are on particular interest with regard to the appeal site, GB-BRC and GB-BRD.
12. The existence of that many areas may be taken as an indication of many options, but in fact it is an indication more of a complicated Green Belt boundary, the lettered areas being little different from those surrounding other villages and settlements in the document where a lesser number suffice.
13. However, much work is still required to identify which settlements are to be considered and which boundaries might be varied. But, this is not a case where the Decision should be delayed on grounds of prematurity. As set out in '*The Planning System – General Principles*' such arguments may be appropriate to substantial developments, and that is not the case here. Nevertheless, within the context of the village and the Green Belt, and notwithstanding the identification of seven areas for consideration, the appeal site is an important part of the structure of the village and weight does attach to the need for a reasoned and wider ranging analysis of all options open to addressing the need, balanced with the effects. This appeal process has not allowed such full analysis of alternatives.

Other Considerations

14. As concluded in the previous main issues, there is harm by reason of this being inappropriate development to which should be added the substantial harm to openness and significant harm to the character and appearance of the area and through encroachment into the countryside. A number of matters are to be considered now before weighing them in the balance to determine whether very special circumstances exist.
15. Using the headings set out in the appellant's closing remarks, the considerations can be set out as follows;
16. *Housing Need* There is an undisputed and significant shortfall against the required five year supply of land, with the requirement, based on the Council's studies, possibly needing to be raised above the South East Plan or Core Strategy figures. This is clearly not a case where argument over whether a 5% or 20% buffer should be added would 'tip the balance', that balance is already weighted on the wrong side of the five year requirement. Added to that is the seemingly indisputable need to look at releasing Green Belt land to provide the sites. It is clear from the '*Green Belt Boundary Review 2013 – Consultation Document*' however that the District contains a large amount of Green Belt with only the south of the area being noted as 'countryside beyond the Green Belt'. Whilst the belt of settlements Bookham/Fetcham/Leatherhead/Ashstead present a highly developed line to the north, the remainder of the Green Belt appears to offer a variety of areas of search.

17. *Affordable Housing* This is described in the Core Strategy as a key priority with the need seen as being acute. In Brockham, the supply appears to have been very low with two dwellings being built ten years ago. Whilst there may well be a need for key workers to be located here, a lot of what was expressed at the Hearing and some of that quoted by the appellant reflects more a wish to be here, as the place where people grew up. Brockham is a Larger Rural Village and it is clearly an attractive place to live with easy access to Dorking and further afield. The village has shops and a school along with other services and appears not to be one where outward movement is causing serious harm. Whilst the application referred to the provision of housing for local needs, and that was supported in representation, the provision would likely be on a wider basis of need.
18. *Sustainability* As just mentioned, Brockham is a second level settlement with facilities in the village and access to Dorking by public transport. Weight attaches to that over a lower level settlement, but tempered by the proximity of Dorking and the possibility of sites being released from the Green Belt there.
19. *S106 Agreement* Full weight can be attached to the provisions of the Agreement and it would satisfy the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 being necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Nevertheless, other than as already considered, the provision is by way of mitigation and does not have additional positive weight attached to it.
20. The Framework states at paragraph 47 the need to boost significantly the supply of housing and goes on to say that housing applications should be considered in the context of the presumption in favour of sustainable development. The three dimensions to sustainable development would be served by this proposal in varying ways, the economic role by the activity of development and at the more local level, the introduction of additional residents and their spending power. The social role too would be served by the new residents bolstering the community, although as stated, there is limited evidence of this being a community lacking in services, sporting and other activity. The environmental role however is, on balance not positive for the reasons set out earlier with regard to the Green Belt and the character and appearance of the area and there would be harm.
21. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, and that is the case in Mole Valley. Paragraph 14 states that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or where specific policies in this Framework indicate development should be restricted. The footnote includes Green Belt land as well as Areas of Outstanding Natural Beauty as examples where such policies may apply.
22. There is a balance to be struck, in terms of the justification for inappropriate development, read with paragraph 14 of the Framework. The harm has been found to be considerably greater than contested by the appellant in referring to it as being 'about as limited as can be imagined'. Substantial weight is given to the harm to the Green Belt, through being inappropriate development and

through the harm to its openness, and in this case further harm has been identified as detailed previously. Having regard to all matters raised it is concluded that very special circumstances sufficient to clearly outweigh the harm and thus allow the development as provided for in paragraph 87 of the Framework, have not been demonstrated.

Other Matters

23. Among matters raised by the Action Group, the risk of flooding and harm to highway safety and the movement of traffic was not supported at official level and the Agreement under S106 of the Planning Act would provide mitigation agreed by the relevant authorities. Three properties were visited and it is accepted here that the outlook would be changed, but not so greatly as to cause harm in planning terms. Limited weight attaches to the loss to or alteration of a private view, although in this Decision, due weight has been attached to the effect on public viewpoints. Although dwellings in the Nutwood Avenue area are that much lower than the proposed level of the development, the separation distances and the location of windows could be arranged at reserved matters stage to be sufficient to avoid harmful overlooking.
24. It is acknowledged that in addition there was support for the proposal expressed in letters and at the Hearing, and much of that concerned the wish of offspring to return to or stay in the village, seen as a reflection of the affordable housing need. That matter has been considered above.

Conclusions

25. The proposal is inappropriate development in the Green Belt and would also cause harm to openness and to one of the purposes of the Green Belt, as well as to the character and appearance of the area. No other considerations have been shown sufficient to clearly outweigh the harm and therefore for the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

H Lowe	Senior Planning Officer Mole Valley District Council
J Straw	Planning Policy Manager Mole Valley District Council
S Parkes	Senior Planning Officer Mole Valley District Council
C Hobbs	Senior Planning Officer Mole Valley District Council
J Smith	Senior Planning Officer Mole Valley District Council

FOR THE APPELLANT:

R Ground	Barrister
A McNaughton	Rymack Ltd
R Gamble	Rymack Ltd
P Hunt	Appellant
M Roberts	GTA Civils Ltd

INTERESTED PERSONS

R Abbott	Chair Action Group
M Homewood	Vice Chair Parish Council
Cllr Homewood	District Councillor
G Hein	CPRE Surrey
D Minor	Poland Trust
Local residents also spoke for and against the proposed development	

DOCUMENTS

Document	C1	Green Belt Boundary Review 2013 submitted by Council
Document	C2	Dorking Area Action Plan and Inspector's Report submitted by Council
Document	C3	Mole Valley Local Development Framework Core Strategy submitted by Council
Document	A1	The Queen....Save Our Parkland Appeal Limited v East Devon District Council submitted by appellant
Document	A2	Tewkesbury Borough Council v SoSC&LG etc submitted by appellant
Document	A3	Appeal Decision Vincent Lane 2181175 submitted by appellant
Document	A4	Highfield Farm, Tetbury, SoSC&LG Appeal Decision and Inspector's Report submitted by appellant
Document	A5	Closing Remarks submitted by appellant
Document	3/1	Names of those wishing to be represented by R Abbott submitted by Action Group
Document	3/2	List of issues submitted by Action Group
Document	3/3	Photograph of agricultural uses submitted by Action Group

Document	3/4	Pie diagram of those responding to application submitted by Action Group
Document	3/5	Bus timetables submitted by Action Group
Document	3/6	Photographs of bus in Kiln Lane and parking at Rugby Club submitted by Action Group
Document	3/7	Extract ' <i>Planning</i> ' 8 March 2013 submitted by CPRE
Document	3/8	Surrey Hills Area of Outstanding Natural Beauty Management Plan submitted by CPRE
Document	3/9	Brockham Parish Plan
Document	3/10	Letter granting access to property in absence, E Bailey

Richborough Estates