



Appeal Decision

Hearing held on 7 October 2015

by **David Smith BA (Hons) DMS MRTPI**

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

Decision date: 22 October 2015

Appeal Ref: APP/M3645/W/15/3035829

Tillingdown Farm, Tillingdown Lane, Woldingham, Surrey, CR3 7JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Asprey Homes (Southern) Ltd and HC Developments against the decision of Tandridge District Council.
 - The application Ref TA/2014/1107, dated 10 September 2014, was refused by notice dated 20 November 2014.
 - The development proposed is demolition of existing buildings and erection of 13 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal process the appellants introduced revised site and block plans to address issues relating to servicing by refuse vehicles. The amended drawings include a turning head for that purpose but the position and design of the dwellings is unchanged. Additional plans were also submitted to demonstrate turning manoeuvres and entry and exit points on the A22 Caterham by-pass but these are illustrative. Furthermore, plans were provided showing 5 options for access and egress onto and off of the A22. All of those on the Council's list were consulted about these drawings by the appellants.
3. The original Transport Statement indicated that vehicular access to the site would remain from the two existing access points onto the by-pass. At the hearing the appellants indicated that although other means of access are, in their view, acceptable they wished to proceed on the basis of a combination of proposed Options 1 and 5. The Council raised no objection to me considering the appeal on that basis. Given the nature of the changes and the notification of potentially affected parties undertaken I am satisfied that no interests would be prejudiced in so doing. Therefore the proposal comprises the revised site and block plans with vehicular access gained via Option 1 and Option 5.
4. In the light of this reason 5 relating to refuse facilities has been withdrawn. The appellants have also undertaken an ecological survey and this has led to the fourth reason for refusal being withdrawn. There is no evidence to indicate that I should take a different view in respect of these issues.

Main Issues

5. Having regard to the above paragraphs the main issues are therefore :

- Whether the proposed development would be inappropriate development in the Green Belt having regard to national policy and the development plan;
- The effect on the character and appearance of the surrounding area which is within the Surrey Hills Area of Outstanding Natural Beauty (AONB);
- The effect on highway safety with particular reference to vehicular access onto and off of the A22 Caterham by-pass; and
- If any harm would occur whether it is outweighed by other material considerations.

Reasons

Whether inappropriate development in the Green Belt

6. The National Planning Policy Framework provides that the construction of new buildings should be regarded as inappropriate in the Green Belt. There are a number of exceptions to this including the partial or complete redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. The wording of criterion G of Policy DP13 of the Tandridge Local Plan Part 2: Detailed Policies is almost identical.
7. The appeal site has an area of 1.82 ha and comprises a substantial complex of buildings many of them with agricultural origins. The definition of previously developed land in the Glossary to the Framework excludes land that is or has been occupied by agricultural buildings. However, in the light of the judgment in *R (Lee Valley Regional Park Authority) v Broxbourne Borough Council [2015] EWHC 185 (Admin)* the Council no longer disputes that the appeal site falls into the category of previously developed land.
8. Farming activity at Tillingdown Farm ceased in about 1973. The above judgment (paragraph 38) indicates that an agricultural building does not include one which was used for agricultural purposes but which, lawfully, is now used for another purpose, mixed with agriculture or not. No Lawful Development Certificates have been issued and an application in respect of a small part of the appeal site and other land outside it has been undetermined since 2008.
9. However, there is a strong body of evidence from those familiar with the site that it has been used for many years for a mixture of purposes including livery stables (buildings 3 and 4), a builders/scaffolding yard (building 1 and adjoining land) and external storage of building materials and other items (land to north of building 2 and rear of buildings 3 and 4). Building 5 and part of building 7 are also stables. Tillingdown Farmhouse (building 11) itself is clearly a structure that is outside the definition and the Stable Flat within building 7 is also in residential use. There are extensive hard surfaced areas which can be regarded as associated fixed surface infrastructure. Therefore I am satisfied that the appeal site is not solely occupied by agricultural buildings.
10. There is nothing to show that building 6 or the barn at building 7 may have lawful non-agricultural uses and there is open land to the south-east of Tillingdown Farm. The Lee Valley judgment states that "While ... the flexibility in the NPPF for previously developed land may not require every part of the application site to have been previously developed land, the presence of some

previously developed land within an application site does not make the whole site previously developed land either ..." (paragraph 51). Curtilage land is within the definition of previously developed land although it should not be assumed that the whole of the curtilage should be developed.

11. It is therefore not the case that the presence of a single non-agricultural building means that the entire site has the status of previously developed land. However, a significant proportion of the appeal site falls within the definition. Furthermore, the exception in paragraph 89 refers to previously developed *sites* [my emphasis]. In this case, the boundaries have been drawn in a logical manner such that the area to be redeveloped is a recognisable entity. Indeed, when looked at holistically rather than disaggregated down into discrete components the proposal would involve the redevelopment of a previously developed site. Therefore the first hurdle of this exception has been cleared so that consideration should now be given to openness and purposes.
12. Openness is one of the essential characteristics of the Green Belt and should be differentiated from visual impact. It means the absence of buildings or development and is epitomised by a lack of buildings. The proposal would result in a 47% reduction in volume and a 30% reduction in floor area compared to the existing buildings at Tillingdown Farm to be removed. There would also be a 48% reduction in hardstanding.
13. In an appeal decision at South Godstone¹ the Inspector decided that notwithstanding the mathematical reduction in volume the sum of visual spread of built form would result in a reduction in the openness of the Green Belt. The Council considers that similar principles should be applied here in relation to matters of height and layout.
14. The proposed buildings would range from 8.1m to 9.8m in overall height. Tillingdown Farmhouse is also about 9.8m high but the stables (buildings 3, 4 and 5) are more modest in scale. Indeed, the new houses would be uniformly two stories in height whereas some existing buildings are only single storey. Nevertheless the overall difference in scale would not be dramatic. The proposed houses and garages would be positioned in a more scattered pattern than the existing concentration of development. Particular attention is drawn to Plots 11 and 13 although Plot 4 is on the site of what appears to be an operational scaffolding business. The corollary is that no new buildings are proposed in lieu of building 7 which is, in part, a large barn.
15. Whilst the general height and dispersal of buildings would be greater than it is now this does not override the significant overall reduction in volume and floor area that would occur. Overall, therefore, the proposal would not have a greater impact on Green Belt openness than the existing development. When viewed in the round the overall effect would be about the same.
16. The five purposes of the Green Belt are set out in paragraph 80 of the Framework and one of them is to assist in safeguarding the countryside from encroachment. None of the others would be transgressed. Although the scheme would result in some buildings where there are currently none the site boundaries are well-defined and new development would not extend beyond these. There are also other dwellings to the north-east (4 cottages) and south-west (Tillingdown). The appeal site is in the countryside for planning policy

¹ Ref: APP/M3645/A/11/2156784

purposes but that does not mean that pushing built development slightly outwards would necessarily result in encroachment. In short, one group of buildings would be replaced by another so that having regard to its strategic role there would be no greater impact on this Green Belt purpose.

17. Therefore, having judged the proposal against the provisions in the sixth bullet point of paragraph 89 of the Framework and Policy DP13, I conclude that the proposal would not be inappropriate development in the Green Belt. Consequently there would be no conflict with Detailed Policy DP10.

Character and appearance

18. According to the Framework great weight should be given to conserving landscape and scenic beauty in AONBs which have the highest status of protection. Policy CSP20 of the Core Strategy contains similar sentiments and principles. Reference is also made to the Surrey Hills AONB Management Plan. Paragraph 116 of the Framework sets out the approach to major development in such designated areas but, in this context, the erection of 13 houses should not be so defined.
19. The scheme has been designed along the lines of a rural farmstead with an informal distribution of individual dwellings as opposed to the more compact arrangement of the existing buildings. Many of the new houses would be on the site of existing buildings but some would not so there would be a greater overall 'spread' of development. However, this would be compensated for by the removal of building 7 and the appeal site itself is quite well contained. Whilst it is on top of a ridge no long distance views have been identified so that the proposal would not be conspicuous in the wider landscape. It would nevertheless be visible from the public rights of way through the site.
20. The AONB Planning Advisor suggests, amongst other things, that the proposed buildings should be single storey. This is an unreasonable expectation given the size of existing buildings at the site. Furthermore, the overall height of the roofs is due, in part, to their steep slopes and their bulkiness is offset by the use of hip ends. Due to the relatively secluded nature of the site the scale of development is not, in itself, a point against the proposal. Indeed, in line with Core Strategy Policy CSP21, landscape character would be conserved.
21. The detailed design seeks to incorporate traditional features and materials and the drawings indicate the use of brick, tile hanging, boarding and tiles. Some criticism is made of the barn-like features on Plots 3 and 4 and the 'mock Tudor' timbering on Plots 12 and 13. These appear as rather token 'add-ons' and the central gable would appear clumsy and visually unrelated. The composition of Plots 7, 8 and 9 with its 'carriage arch' would also be fussy and contrived. Although developments of this type may have been undertaken elsewhere in Tandridge there is no indication in the Design and Access Statement that the proposal has sought to reinforce local distinctiveness.
22. By varying the designs to the extent proposed there would be an overall lack of cohesion so that the buildings would appear as a random collection rather than providing a 'sense of place'. Because of the siting of the houses and the presence of domestic curtilages and garages there would inevitably be a degree of suburbanisation. In order to counteract that and to ensure that the houses 'belong' in their setting within the AONB it is all the more important that the

detailed designs should fully reflect local styles. However, there is no evidence that this would be the case.

23. Paragraph 61 of the Framework confirms that the visual appearance and architecture of individual buildings are very important factors. Any deficiencies in this respect should nevertheless bear in mind that the proposal would result in significantly less overall built development and the removal of some rather dilapidated structures. Whilst not in the best condition they are nevertheless the kind of buildings that would normally be expected to be seen in the countryside whereas a cluster of dwellings is not.
24. The Government attaches great importance to the design of the built environment. Whilst existing buildings of no great merit with a larger overall volume would be removed the proposal would remain for many years to come and should be acceptable in its own right. For a group of residential buildings to be successfully integrated into the AONB their individual designs need to be convincing and sit comfortably in their rural setting. The proposal is for large buildings which would not adequately respond to local character and history or clearly reflect the identity of local surroundings.
25. Therefore the proposal would harm the character and appearance of the surrounding area within the Surrey Hills AONB. The proposed development would neither conserve nor enhance the distinctiveness and sense of place of the locality. As such, one of the principles in the AONB set out in Policy CSP20 would not be followed. Furthermore, as it would not integrate effectively with its surroundings or reinforce local distinctiveness, there would be a conflict with Policy DP7 of the Detailed Policies as well as with the similar general aims for character and design in Core Strategy Policy CSP18.

Highway safety

26. The A22 Caterham by-pass forms part of the primary route network. Some stretches are dualled and the carriageways are segregated by a crash barrier. According to a traffic count in 2014 it carries, on average, over 12,000 vehicles daily on weekdays in both directions. It is subject to a 50mph speed limit but at four different locations close to the appeal site the recorded 85th percentile speed exceeded this. Nevertheless, although not built to modern standards, there is no indication from the accident data that the by-pass is significantly more hazardous than similar roads of this type.
27. The Framework refers to the need to take account of whether safe and suitable access can be achieved for all people. Policy CSP12 of the Core Strategy requires new development to have regard to adopted highway design standards and Policy DP5 of the Detailed Policies makes a similar reference and indicates that proposals should not create hazards. The third objective of the Surrey Transport Plan aims to improve road safety. The importance of highway safety is therefore recognised in national and local policies.
28. The existing access points used by businesses and residents at Tillingdown Farm comprise the northern bridge access from the northbound carriageway and Tillingdown Lane from the southbound carriageway. The County Council questions whether there is a legal right to use the bridge access which is also a public bridleway and is concerned about conflict between vehicles and other legitimate users. Furthermore, the bridge parapets are considered inadequate to contain the weight and volume of vehicular traffic. Evidence from the

- appellants comprises detailed accounts from individuals that this access has been used for over 20 years and a conveyance plan from 1939.
29. The lawfulness of these existing movements is not for me to settle and the County Council accepted at the hearing that the status quo would be likely to prevail in the event that the appeal failed. It is not proposed to use this access as part of the proposed development. Tillingdown Lane is part of the public highway but is single track and a very sharp U-turn is required to enter it when heading south along the A22. This requires vehicles to slow down to more or less a standstill in order to negotiate the corner. There is no record of any collisions associated with this junction but unexpected driver behaviour of this kind would seem likely to give rise to the potential for front to rear 'shunts' along such a busy and fast road.
 30. The County Highway Authority also refers to an injunction from 2006 which prevents access by HGVs over a certain size and weight to Tillingdown Farm from Tillingdown Lane and from the existing northern access. This document was not presented but appears to have related to past tipping activities. It underlines the historic concerns of the Authority about turning movements along the by-pass. Any legal impediments would remain in place whatever the outcome of this appeal and may have implications for construction traffic, refuse and emergency vehicles. However there is no suggestion that it would preclude the proposed development from coming forward.
 31. There is a dispute about whether the proposal would increase traffic levels or whether they would remain about the same. Both parties put forward different trip rates but the figure of 8 per day per dwelling is more realistic as travel choices by means other than the car are limited. Historically the amount of traffic from the site may have been higher but many of those uses have ceased and it is not certain that they would resume. It seems to me that a simple exercise having regard to the existing situation is the most reliable way of assessing this point rather than an overly theoretical or speculative one.
 32. The appellants' survey records an existing weekday average of 64 movements from all access points. This includes traffic from all properties at Tillingdown Farm not just those at the appeal site although at that time only 4 of the total of 11 residential units were occupied. There is nothing to support the contention that a high proportion of trips were HGVs or horse boxes. The 13 houses would be likely to generate a total of around 108 daily movements. Other uses outside the appeal site might add to this figure. Overall I expect that the level of traffic would increase from what it currently is and these figures give some impression of the possible total number of movements.
 33. Because of this and because of their characteristics I consider that relying on the existing access arrangements would jeopardise highway safety along the A22. However, as referred to above, the appellants propose alternative means of access to and from the appeal site. Option 1 involves a left turn in only junction from the A22 via an existing gate which is currently closed. Option 5 is a left only exit onto the main road from Tillingdown Lane which would be altered to preclude left turns into it from the A22. In this way traffic would move to and from the A22 on something of a 'one way' system off of and onto the southbound carriageway.
 34. As part of Option 1 a deceleration lane of about 80m in length is proposed within the existing highway verge. In addition, following the Stage 1 Road

Safety Audit a 70m forward visibility envelope is proposed around the inside of the junction radius involving the removal of vegetation. The appellants are confident that this can be achieved on highway land or on land under their control. The forward visibility to the start of the proposed deceleration lane is shown to be 114m. Even taking account of the rise in the A22 as it approaches this point and the central fence my observations suggest that, in practice, this figure would be slightly higher.

35. Taking account of Design Manual for Roads and Bridges (DMRB) and the recorded 85th percentile speed nearby of over 63 mph the Highway Authority considers that this distance should be 220m or, as a minimum, 166m. It equates the forward visibility required to the beginning of the junction to the prescribed stopping sight distances (SSD). However, paragraph 7.5 of Part 6 TD42/95 indicates that this dimension is to allow drivers on the major road to be aware of traffic entering from the minor road in time for them to slow down and stop safely. No vehicles would be entering the A22 at this point and there is nothing specific in DMRB to support the Highway Authority's approach.
36. The purpose of the deceleration lane would be to allow vehicles to move off the main carriageway and to reduce speed gradually before making their turn towards Tillingdown Farm. Whilst other drivers on the A22 would clearly need to be aware of its presence this feature is unlikely to require them to slow down to the extent that they would need to come to a complete stop. So, even taking a cautious approach having regard to the nature of the by-pass, reliance on the SSD is excessive.
37. The curve of the road would inhibit long views of the entire junction including the slowing lane. However, vehicles exiting here would be likely to simply move across after indicating and would be able to brake in good time before making their turns. In view of this I consider that traffic staying on the A22 would have sufficient advance warning of the approaching junction to be conscious of the likelihood of turning movements and to be ready to respond accordingly if necessary. Overall the proposed junction in Option 1 would allow vehicles to turn off the A22 in safety.
38. The only difficulty with Option 5 is that vehicles parked in the lay-by to the north could potentially obstruct the vision for vehicles exiting the re-configured Tillingdown Lane along what is otherwise a straight section of the by-pass. This could be remedied by hatching out the southern end of it to deter parking. A 'Grampian' type condition could achieve this and so vehicular access from the proposed development could be designed in a suitably safe manner. This option would also remove the sub-standard turn into Tillingdown Lane which would be an overall benefit.
39. Therefore, even though traffic to and from the appeal site is likely to increase, highway safety along the A22 Caterham by-pass would not be compromised as a result of the proposed vehicular accesses onto and off of it. As such, the relevant policies in the development plan would be adhered to as well as national policy and the local transport plan.

Other material considerations

40. The proposal would provide 13 additional houses and the Government's aim is to boost significantly the supply of housing. However, there is no evidence that the Council is unable to demonstrate a five-year supply of deliverable housing

sites. Any uncertainty about the continuation of existing commercial uses or the resumption of previous ones would be removed. Although past activities have caused safety concerns along the A22 these have now stopped and there is nothing to indicate that those at the appeal site are or have been problematic. This restricts the importance to be attached to this matter.

41. The proposal would not enhance the openness of the Green Belt as its overall consequences would be roughly on a par with the existing buildings. To some extent the removal of them would be advantageous to the qualities of the AONB but there would be other design drawbacks. Collectively these other material considerations are of limited weight in the decision making process.

Final balancing

42. The proposed development of 13 houses would not be inappropriate development in the Green Belt and would not harm highway safety along the A22 Caterham by-pass. However, by virtue of the detailed design of the buildings the proposal would harm the character and appearance of the surrounding area within the Surrey Hills AONB. As such, it would not accord with the development plan. The other material considerations are insufficient to outweigh either this conflict or the harm identified.

Conclusion

43. Therefore, for the reasons given, the proposed development is unacceptable and the appeal should not succeed.

David Smith

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

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DOCUMENTS

- 1 Application comments from Surrey Hills AONB Planning Advisor
- 2 E-mail correspondence
- 3 Conveyance document dated 14 April 1939
- 4 Signed statements of truth
- 5 Statement of common ground
- 6 Additional suggested conditions
- 7 List of proposed access drawings