



Appeal Decision

Hearing Held on 30 March 2021

Site visit made on 1 April 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18/05/2021

Appeal Ref: APP/D3640/W/20/3251262

**Rosedene Farm and land to the south of Fenns Lane, West End, Woking
GU24 9QF**

- 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 Mr Edward Searl of Fairfax Acquisitions Ltd against the decision of Surrey Heath Borough Council.
 - The application Ref 19/0154, dated 21 February 2019, was refused by notice dated 17 January 2020.
 - The development proposed is outline application for the erection of 74 dwellings (and the retention of Rosedene Farm), provision of accesses, landscaping and play space along with an area of public open space following the demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal application was originally refused on four grounds. However, at the Hearing, the Council confirmed that Reasons for Refusal three and four, which respectively, relate to the effect of the proposal upon the Thames Basin Heath Special Protection Area (SPA) and the provision of affordable housing, had been addressed through the provision of a Unilateral Undertaking. As a consequence, the Council had no objections on these grounds. I am also satisfied that these issues are adequately addressed and have therefore dealt with the appeal on this basis.
3. The planning application was submitted in outline with all detailed matters, except for access, reserved for a subsequent approval. An indicative layout (Drawing No. 1811/PL.03 Rev C) accompanies the outline planning application and I have taken this into account in so far as establishing whether or not it would be possible, in principle, to erect seventy four dwellings on the site.
4. The proposal is supported by a planning obligation in the form of a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990. I have had regard to it in reaching my decision.
5. For reasons of precision and clarity, I have taken both the site address and the description of development from the Council's Decision Notice.
6. The appeal hearing was conducted as a Virtual Hearing.

Main Issues

7. The main issues in this appeal are:

- Whether or not the proposal is inappropriate development in the Green Belt;
- The effect of the proposal upon the openness of the Green Belt;
- The effect of the proposal, in particular the quantum and spread of development, upon the character of the area; and
- If the development is inappropriate, 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 the development.

Reasons

Whether inappropriate development

8. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the National Planning Policy Framework (the Framework) identifies that the construction of new buildings should be regarded as inappropriate development in the Green Belt, other than in respect of a limited range of specified exceptions.
9. At the Hearing, it was accepted by the appellant that the provision of the new dwellings on the northern parts of the appeal site would not meet any of the exceptions identified in either Paragraph 145 or 146 of the Framework. Having reviewed the evidence and the site, I concur with this view.
10. With regards to the proposed public open space which would be provided within the southern parts of the appeal site, it was agreed between the parties that this aspect, by virtue of accordance with Paragraph 146(e) of the Framework, would constitute appropriate development within the Green Belt. I concur with this view.
11. Therefore, when assessed against relevant sections of the Framework and the relevant Policies in the Surrey Heath Core Strategy and Development Management Policies (SHCS), substantial elements of the proposal would represent inappropriate development within the Green Belt.

Impact on the openness of the Green Belt

12. The essential characteristics of Green Belts are their openness and their permanence. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development.
13. Existing development on the site includes a mix of single storey buildings, stable blocks and storage containers, which are mainly clustered around existing yards. The remaining areas are used in connection with the existing equestrian use on the site and comprise open paddock areas and a manege.

The paddock areas are generally identified and sub-divided by post and rail fencing.

14. From my site visit, it was clear that there are limited views from Fenns Lane into the northern parts of the appeal site due to the presence of existing and, in places, often substantial landscaping. However, where there are views, these are mainly onto open, undeveloped parcels of land, which are generally devoid of built-form. Furthermore, once within the site, due to the limited nature of the existing built development, the dominant features are the open paddock areas. Therefore, whilst parts of the northern site are screened from public views, the overriding characteristic of the appeal site is one of openness.
15. Views of the southern parts of the appeal site are more restricted and limited, due to its distance from Fenns Lane. Views from the south are also relatively well contained. However, from the existing footpath, where it runs between the two northern parts of the site, there are a number of points where there are views of the area around Rosedene Farm, including the existing buildings. Views from the footpath towards Fenns Livery are restricted by the presence of the house and garden of Heathermead.
16. The appeal proposal, through the introduction of new dwellings and associated infrastructure, would inevitably urbanise the open and natural character of the site, with elements of the proposal being visible from local roads and footpaths. Therefore, in contrast to the current situation, the proposed development of the northern parts of the site would have a more permanent appearance, with a significant increase in activity and built form, including the provision of residential paraphernalia and associated infrastructure.
17. It was put to me by the appellant that whilst being illustrative, due to the density of the scheme being lower than that of surrounding developments, the proposal would present a relatively porous edge, which, along with the retention and enhancement of existing landscaping along Fenns Lane, would ensure that the overall sense of openness would be retained. Openness, however, is not just about visual impacts, but it also has a spatial element. In this instance, due to the urbanising effect of the proposal, it would have a greater impact on the openness than the existing development.
18. Therefore, in both spatial and visual terms the proposed development of the northern parts of the appeal site, would have a significantly greater impact on the openness of the Green Belt than the existing situation. This would be contrary to the Framework where it states an essential characteristic of Green Belts is their openness. The proposal would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.
19. With regards to the southern parts of the site, through the proposed provision of open space, these areas would essentially remain open. Given these areas are currently private, with the encouragement of access to these areas that would be delivered by the proposal, there would be a likely increase in activity within these parts of the appeal site. However, given the nature of the proposals, it is unlikely that this increase in activity would harm the openness of these parts of the Green Belt.
20. It was put to me by the appellant that the site currently makes no contribution to Purposes a), b) and d) of the Green Belt, as set out in Paragraph 134 of the

Framework. In relation to Purpose c), the appellant submitted that the appeal site makes a moderate-relatively weak contribution. This is in contrast to the Council's own study¹ which shows both sites performing strongly against both Purposes b) and c). A more recent Council study², came to a similar conclusion, although considered that land to the north of Trulley Brook, made a moderate contribution to Purpose b).

21. From my own assessment of the evidence and from my site visit, in terms of Purpose b), whilst the appeal site lies on the south-western side of West End and therefore, slightly away from the nearby settlement of Bisley, it nonetheless performs an important function in preventing neighbouring towns from merging. With regards to Purpose c), the appeal site, due to its predominately open appearance, plays an important role in safeguarding the countryside from encroachment. In my view therefore, the development of the northern parts of the appeal site would conflict with Purposes b) and c) of the Green Belt as set out in Paragraph 134 of the Framework.
22. I note that the southern parts of the appeal site would be retained as open space and would therefore not conflict with the identified Purposes. Whilst this is a benefit of the proposal, it is not of sufficient weight to overcome the conflict caused by the development of the northern parts.
23. It is common ground between the parties that substantial parts of the site meet the definition within the Framework for previously developed land. However, there was a disagreement over the precise extent of the land which was previously developed. It would appear that the areas of disagreement are presently in use as paddocks and are therefore similar in characteristics and use to those areas where there is agreement.
24. In this respect, I am persuaded by the submissions from the appellant in relation to the extent of previously developed land on the site. I note however that the buildings themselves are predominately single storey and cover a relatively small proportion of the site. I am also mindful of the definition within Annex 2 of the Framework, and in particular note that whilst substantial parts of the site are previously developed, the majority of it does not contain any buildings and comprises open land in paddock use. Therefore, whilst large proportions of the northern parts of the appeal site comprise previously developed land, most of this land demonstrates a significant sense of openness.
25. In summary, whilst the proposal would maintain the openness of the southern parts of the site, the appeal proposal would introduce seventy four dwellings into a location that, whilst it contains elements of previously developed land and is occupied by a number of single storey buildings, is essentially open. The erection of the new dwellings, along with associated residential activity, paraphernalia and infrastructure, would therefore inevitably result in the significant loss of openness across the northern parts of the site, contrary to the Framework. Furthermore, the proposal would also conflict with the purposes of including land within the Green Belt.

¹ Surrey Heath Green Belt and Countryside Study (2017)

² Surrey Heath Local Plan Appraisal of Sites – Green Belt Sites (2018)

Character of the area

26. The appeal site lies outside, but adjacent to, the development boundary of West End, and is therefore within the countryside.
27. Fenns Lane has little in the way of footpath provision and in parts is of limited width, which gives it the appearance and feel of a rural lane. Along its northern side are the residential properties, which form the settlement edge of West End. Properties are generally detached, set back from the road with relatively large front gardens, interspersed with well-established and mature planting.
28. In contrast, its southern side, is mainly undeveloped, except for the buildings of the appeal site and a number of other, large properties, set within substantial plots. In this respect, Fenns Lane has the character of a road that circles the edge of the urban area of West End to the north, with the countryside running to the south.
29. The existing uses on the appeal site do, without a doubt, have an effect upon the character of Fenns Lane. However, clear views of these uses are limited, with the main views being onto land that is in equestrian use, something which is not uncommon within the countryside. Therefore, whilst elements of the appeal site include the type of activity and uses that are urban in character, due to their limited visibility, I find that their influence on the character of the area to be limited.
30. There are elements of the appeal site, in particular around the entrance to Rosedene Farm, where some of the existing uses result in a poor-quality landscape. However, I do not find this to be the overriding character of the area, with these uses having a limited influence. Views are predominately of the equestrian use, which in my view is a typical countryside use. On this basis, whilst the site is located on the edge of the settlement, it is not an urban fringe location, with the area, including the appeal site, having a distinct and clear feel and character of being part of the countryside.
31. The effect of the proposal would be to increase the presence of built development in the countryside. This would have an impact on the open character of the appeal site.
32. Whilst the appellant's Landscape and Visual Appraisal, coupled with the illustrative layout, demonstrates that a relatively low-density development would be provided and that current visual detractors would be removed, the appearance of built development from Fenns Lane would not be fully concealed. As a consequence, there would be a number of instances where the upper floors and roofscape of the proposed dwellings would be apparent.
33. The proposal would be wholly different in character, scale and appearance to the existing development on the site and, when seen from Fenns Lane, would be viewed as an extension of the settlement of West End into the open countryside. Furthermore, due to the spread of the development along Fenns Lane, whilst the impacts would be relatively localised, the change from countryside character to a residential setting, when experienced from along Fenns Lane would, in my view, be profound.
34. Therefore, having assessed the proposal from a range of wider viewpoints and considering all the evidence on this matter, I am not satisfied that the impacts on the character of the area are acceptable.

35. The removal of current visual detractors would be a benefit, although given their limited influence on the overall character of the area, this carries limited weight. The retention of the substantial sylvan character of the southern side of Fenns Lane, along with the provision of additional landscaping and the reduced density of the proposal are also benefits. However, in terms of the visual appearance of the scheme, these would be outweighed by the harm caused by the overall urbanising effect of the proposed development.
36. In conclusion, the proposal would, due to the quantum and spread of development, harm the character of the area and conflict with the development plan in this respect. Consequently, the proposal would conflict with Policies CP2 and DM9 of the SHCS which, amongst other things, seeks to respect and enhance the local and natural character of the environment.

Other considerations

37. Paragraph 144 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations in favour of the development must clearly outweigh the harm in order to justify the proposed development.
38. It is common ground between the parties that the Council, at this moment in time, are unable to demonstrate a 5-year supply of housing land. In the view of the appellant, this shortfall needs to be seen in the context of an overall increased housing supply requirement, along with the lack of an up to date strategic plan for the Borough. It was put to me by the appellant that, without a plan in place, the Council are failing to meet future needs and, as a consequence, are not achieving sustainable development through a plan led system. In the appellant's view this, in combination with the lack of a 5-year land supply, should weigh heavily in favour of the proposal.
39. In response, whilst the Council accepted that they are unable to demonstrate a 5-year supply of deliverable housing land, they considered that this should be viewed against the backdrop of previous delivery, with the Council able to demonstrate that the requisite level of supply had been achieved over a past number of years. Moreover, the Council drew my attention to their most recent Housing Delivery Test (HDT) submissions, where they were able to demonstrate an exceedance of their requirement.
40. From the evidence, it is apparent that there is currently a lack of a strategic plan for the Borough, with the current Core Strategy dating back to 2012, predating the original version of the Framework, with the settlement boundaries within the Borough having not been reviewed since 2000. Whilst the Council were able to highlight the work ongoing to prepare a new Local Plan, it is clear that there have been a number of starts to this process, with a new plan not expected to be in place till June 2023, although the appellant cast some doubt over the achievability of this timetable.
41. Paragraph 11 of the Framework states that where relevant policies are out of date, permission should be granted, unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 6 of the Framework specifies that Green Belt is included within such protected areas. As I have already found that the Framework policy relating to Green Belt in Paragraph 143 indicates that the proposed development is inappropriate, such

that, notwithstanding the current absence of a Framework compliant supply of housing land, the tilted balance does not apply in this case.

42. Notwithstanding the above, the lack of a clear, up to date strategic plan is a serious and significant issue, especially given the nature of the plan led system and the requirement to deliver sustainable development to meet future needs. It is clear from the evidence in this case that, whilst the Council is unable to demonstrate a 5-year supply of deliverable land, it is only marginally below the required level, with their HDT demonstrating that they are taking measures to address this. However, given the national importance placed on the delivery of new homes, and in combination with the lack of an up to date strategic policy, it is appropriate to give considerable weight to the delivery of new housing.
43. The appellant has cited the current position with regards to the provision of affordable housing within the Borough and that, due to a lack of delivery, there is an acute issue with the delivery of affordable housing. Furthermore, due to the lack of a strategic plan, future delivery remains uncertain.
44. From the evidence presented to me, it is clear that there is a substantial shortfall in the delivery of new affordable housing across the Borough. Whilst I recognise the measures identified by the Council to address this, I am mindful of Paragraph 59 of the Framework and the Government's objective to significantly boost the supply of homes, and that the needs of groups with specific housing requirements are addressed. Furthermore, I note that the proposal would deliver a policy compliant level of affordable housing.
45. Considering the overall level of the shortfall, in combination with the delivery of much needed affordable housing units that the proposal would provide, it would be appropriate to attribute considerable weight to this benefit.
46. The appeal site lies in a relatively sustainable location, with good access to local services and facilities, along with nearby public transport links that provide access to larger, nearby towns. In this regard however, I note that the settlement of West End is designated as a smaller village in Policy CP1 of the SHCS, with only a limited range of shops and services. On this basis, I have given this limited weight.
47. The proposal would involve the development of large areas of previously developed land. However, in this respect, I note that whilst the land is classed as previously developed, due to its current use, large parts of the appeal site exhibit a strong sense of openness. Furthermore, the amount and nature of the existing built development on the site is limited in nature. I have therefore attached minimal weight to this.
48. The appellant has drawn my attention to the substantial areas of public open space that would be delivered to the south of the proposed dwellings. As a consequence, enhanced public access to both the countryside and the wider Green Belt would be provided. Furthermore, within the public open space, new green infrastructure would be created, along with bio-diversity enhancements, which would deliver a substantial bio-diversity net gain across the site. These elements would deliver social benefits. In this case, the proposal would provide over and above the policy requirement, and I consider these to be benefits of the proposal. No substantive evidence was put to me to demonstrate that the current settlement is anyway deficient with regards to

open space and countryside access, therefore I attribute moderate weight to these benefits.

49. The proposal would also deliver economic benefits during the construction phase of the development and support existing local services and facilities once the homes are occupied. These factors weigh in favour of the proposal. Considering the scale of the development proposed, I attribute moderate weight to these.
50. I note that the Council raise no other issues in relation to transport, design, flooding and impact on neighbouring occupiers, amongst other things. However, as these are requirements of policy and legislation, the absence of harm in respect of these matters are neutral factors that weigh neither for nor against the development.

Green Belt balance

51. The proposal would constitute inappropriate development in the Green Belt. As such, the Framework requires that the harm by reason of inappropriateness be accorded substantial weight. In addition, harm would result from the reduction in the openness of the Green Belt and development would conflict with Purposes b) and c) for including land within the Green Belt as set out in Paragraph 134 of the Framework. These matters attract substantial weight.
52. In the context of the above, very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. Consequently, other considerations weighing in favour of the development must clearly outweigh any harm.
53. I have found that the proposed development would constitute inappropriate development in the Green Belt and would harm its openness. Paragraph 144 of the Framework places substantial weight on any harm to the Green Belt.
54. Additionally, Paragraph 143 of the Framework states that inappropriate development should not be approved except in very special circumstances. I have also found that the proposed development would harm the character of the area and would conflict with the development plan in this respect. I give this significant weight.
55. The totality of the above harm has to be balanced with the provision of new housing to help meet the Council's acknowledged shortfall, the provision of a policy compliant level of affordable housing, the substantial bio-diversity and green infrastructure gains, along with the delivery of social and economic benefits, including the provision of improved public access to the countryside.
56. Whilst I acknowledge that these are considerations, in this particular case, considering the substantial weight and national importance to protecting the Green Belt, all of the considerations that weigh in favour of the proposal do not clearly outweigh the identified harm to the Green Belt and any other harm, so as to amount to the very special circumstances necessary to justify the development.

Conclusion

57. For the above reasons, and having taken all matters into consideration, I conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT

Mr Christopher Boyle QC	Landmark Chambers
Mrs Liz Alexander	Bell Cornwell LLP
Mr Paul Whitby	The Ecology Co-op.
Mr Andrew Smith	Fabrik Limited

FOR THE LOCAL PLANNING AUTHORITY

Mr Duncan Carty	Surrey Heath Borough Council
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INTERESTED PARTIES

Dr Jeffery Llewellyn, Chairman of the West End Village Society

Mr Guy Consterdine, Chairman of the West End Action Group

Councillor Graham Alleway, Bisley & West End