



Appeal Decision

Inquiry Held on 23-27 August 2021

Site visit made on 31 August 2021

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Appeal Ref: APP/D3640/W/20/3248358

Land West of 35 Mincing Lane, Chobham

- 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 Mr Ronan Leyden of Sustaining Chobham (Community Land Trust) against the decision of Surrey Heath Borough Council.
 - The application Ref 18/1089, dated 13 December 2018, was refused by notice dated 11 February 2020.
 - The development proposed a community-led proposed redevelopment of Mincing Lane Nursery Chobham to provide 30 dwellings comprising 22 affordable custom build homes for local people and 8 custom build market homes with associated communal gardens, home zone, managed woodland, parking and car club.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form gave the site address as the Former Mincing Lane Nursery, whereas the Council's decision notice and the appeal form gave it as Land west of 35 Mincing Lane. I have used the latter as it describes the location sufficiently precisely. As the postcode given on the application form, appeal form and decision notice differ from one another, I have omitted it from the above header.
3. The original description of development is that which is set out in the banner heading. However, the Council's decision notice and the appeal form gave the description as: "erection of 30 dwelling houses at former nursery to comprise 22 affordable homes and 8 open market with associated gardens, landscaping, woodland, parking and access." During the appeal it was agreed that the scheme would not meet the statutory definition of custom/self-build homes. I have determined the appeal on the basis of the amended description.
4. The Council refused the scheme for 4 reasons. The third related to the effect of the development on the living conditions of 15 Medhurst Close, arising from loss of privacy. During the appeal process the appellant submitted a revised plan showing an amended window arrangement on the first floor of the house on Plot 19. The Council was satisfied that this addressed its concerns and did not pursue this reason for refusal. All parties had an opportunity to comment on the revised plan. I am therefore satisfied that this amounted to a minor amendment to the scheme and that no-one was prejudiced by my acceptance of it. I have determined the appeal accordingly.

5. The appellants submitted an unsigned Unilateral Undertaking (UU) before the inquiry began. The obligation addressed two issues: firstly, it provided contributions towards mitigation measures to address adverse effects of the development on the Thames Basin Heaths Special Protection Area (TBHSPA). These were not in dispute and on this basis the Council withdrew its fourth reason for refusal.
6. Secondly, the UU sought to address how the Discount Market Sales (DMS) housing would be allocated to, and retained for, local people in perpetuity. This continued to be a matter of on-going negotiations during the inquiry which resulted in a final (unsigned) version being submitted on the last day. The completed version was received on 7 September 2021. I return to this matter below.
7. The Government published a revised National Planning Policy Framework (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.

Main Issues

8. The appeal site lies in the Green Belt. The main issues are therefore:
 - a) whether the proposal would be inappropriate development in the Green Belt having regard to local and national policies for the provision of affordable housing;
 - b) the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - c) the effect of the proposal on the character and appearance of the area;
 - d) whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate development

9. The village of Chobham is 'washed over' by the Green Belt; that is to say, it is included within this designation. The proposal seeks to construct 30 new dwellings on a site which lies immediately beyond the settlement boundary. It would deliver 22 affordable homes, which meet the definition of DMS housing set out in the glossary to the Framework. These would be sold to qualifying buyers at a discounted price of between 30-40% below market value. To support the delivery of these DMS homes the scheme would include 8 open market homes.
10. The Government attaches great importance to Green Belts, the essential characteristics of which 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. The construction of new buildings is to be regarded as inappropriate subject to a limited number of specific exceptions. The only one relevant to this case is set out in paragraph 149 f) of the Framework. This permits limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites).

11. As the site lies beyond the settlement boundary, it is in the countryside as well as the Green Belt for the purposes of the development plan. It therefore falls to be determined against Policy DM5: *Rural Exception Sites* of the Surrey Heath Core Strategy and Development Management Policies Document (Core Strategy). As the Core Strategy was adopted in 2012, it pre-dates the Framework. Nevertheless, Policy DM5 is broadly consistent with the Framework's approach to development in the Green Belt.
12. Policy DM5 permits development on rural exception sites in the countryside or Green Belt provided they consist of 100% affordable housing. The Framework permits the provision of market housing to support the delivery of affordable housing in some circumstances. The issue of viability is therefore relevant if the scheme accords with the development plan in all other respects. However, to meet the development plan's requirements as a rural exceptions site, it is also necessary for the proposal to comply with all four of the specific criteria in Policy DM5 set out below.
 - a) *Criterion (i)*
13. This states that development will be permitted where there is a proven local need for affordable housing for people with a local connection to the area. The policy does not restrict the provision of affordable housing to a particular type or tenure. As the Framework has expanded the definition of affordable housing, a scheme providing DMS would comply with this aspect of Policy DM5. The policy is also consistent with the Framework's aim to require rural exception sites to provide affordable housing to meet identified local needs. Similarly, the Planning Practice Guidance (PPG) advises that rural exception sites can be used to deliver any form of affordable housing, provided this is supported by appropriate evidence of local need, such as a local housing need survey.
14. It was common ground that in this context 'local' relates to the Parish of Chobham. The Surrey Community Housing Partnership were commissioned by the appellant to carry out a housing need survey within the Parish in 2018. It was undertaken with the specific purpose of gathering evidence on the level of interest in a scheme for DMS homes on the appeal site. It also sought the views of local people towards such a proposal. The survey did not purport to address the entirety of affordable housing needs in the Parish. A total of 177 completed the survey which represents a response rate of approximately 10%. Three-quarters of responders considered themselves to be well-housed. The survey found 33 households who expressed a desire to move, the main reasons for which were to own their first home, to start a family or to downsize. However, not all these respondents would be eligible to access DMS housing as some were living in social rented housing, others already owned their own home.
15. The report acknowledged that its results should be tempered with a word of caution about the ability of those who might be interested in the scheme to be able to secure the necessary deposit and mortgage to purchase a DMS home. The appellants updated the survey in July 2021 to address the issue of affordability. They did so by contacting all previously interested parties and undertaking some additional publicity. They interviewed 36 people who could demonstrate a local connection and had a household income of less than £80k/annum, the appellants' proposed income cap for eligibility to their scheme. There was some limited evidence that 23 of those questioned would

be able to find the necessary deposit and secure a mortgage. Although it was not possible to fully verify the financial position of potential purchasers, the demand appears to be very close to the number of homes in the appeal scheme.

16. I am satisfied that the surveys identified demand for the DMS homes which the appellants wish to deliver. They confirmed that there are potential eligible purchasers who aspire to buy their own home in the village for a variety of reasons. However, the information did not enable me to distinguish between 'need' and 'aspiration'.
17. Due to the high cost of local housing in the Parish, the potential purchasers are unable to meet their aspirations to live in the village. House prices in Chobham are as much as 30% higher than elsewhere in Surrey Heath. This probably reflects its reputation as a highly desirable and attractive village. Its location also means that it is close to the national road network, providing access to a wide range of destinations. However, to my mind an aspiration to live in such a location does not necessarily demonstrate a proven local need.
18. It is not unusual for people who cannot afford to purchase a home in the area where they would most like to live, to move to a lower cost area. Given the particularly high price of homes in Chobham, there are likely to be properties on the open market elsewhere in Surrey Heath which are less expensive. It follows that a proportion of those identified within the appellants' surveys could find a property which would be within easy reach of the village which they could afford to buy without the need for any subsidy. This would reduce the justification for providing DMS homes on a site outside the settlement boundary. I was therefore not persuaded that the surveys demonstrated a proven local need for the scale of development proposed.
19. The Council's housing register only identifies those who may be eligible for affordable housing provided by registered providers. The Council does not maintain any record of those who may be interested in DMS housing. The only source of information about local housing requirements across all tenures came from the Council's Local Housing Needs Assessment (LHNA), dated May 2020. The information collected formed part of the evidence base for the preparation of the new local plan and provided an overview of housing needs across the borough. I therefore give this evidence moderate weight even though main parties considered that the report's recommendations carried little weight as the plan has not been examined.
20. In assessing affordable housing requirements, the LHNA found that the most acute need is to provide affordable rented housing. The study divided the borough into two parts and quantified the needs in each of those areas. In the sub-area in which Chobham is situated the need for affordable home ownership products (which include shared ownership and DMS) was estimated to be 30 dwellings/annum, compared to 72 dwellings/annum for affordable rented housing¹. The LHNA did not provide any analysis of affordable housing needs at Parish level. Nevertheless, these figures suggest that the appeal scheme would provide a significant proportion of the identified need for an affordable home ownership product within an area much larger than the Parish of Chobham. As such the scheme's size would appear to exceed that which is justified to meet the local needs of the Parish.

¹ Page 5 of the HLNA.

21. The LHNA stated that there were 260 individuals and couples on the Council's Housing Register in May 2019. The inquiry was informed that 20 people currently on the register have expressed a preference for living in Chobham. Policy DM5 does not require a scheme to provide for the most acute needs over and above other identified needs. However, the figures suggest that the Parish based need for affordable rented homes is a small proportion of the borough's total. As the need for affordable home ownership products is less than the need for homes to rent, this reinforces my view that a scheme for 22 DMS homes would be larger than the Parish actually needs.
22. There are undoubtedly local people who would like the opportunity to purchase a DMS home in Chobham, as they could not afford to purchase on the open market in the village. However, from all that I heard and read, I do not consider that the number of potential buyers with a local connection and the resources to make a purchase would be as high as 23.
23. Taking all these factors into account, I conclude there is insufficient proven local need to justify the construction of 22 new affordable homes, which would only be available as DMS housing. The proposal has therefore failed to satisfy criterion (i) of Policy DM5.

b) *Criterion (iii)*

24. This requires the development to provide affordable housing for local people in perpetuity. This is an important aspect of any rural exception site scheme which must stand the test of time. A mechanism for ensuring that this would be achieved was set out in the UU. The key components of contention at the inquiry were the definitions of 'local connection', a 'qualifying buyer' and the 'marketing period'. I will deal with each of these in turn.
25. To demonstrate a local connection, applicants would have to meet at least one of 4 criteria. They would have to have lived in the Parish for the last 18 months or have settled employment of 16 hours/week there. Alternatively, a close relative must have lived in the village for 12 months or the applicant must satisfy the Council's Housing Services Manager that they have a special reason to live in the development. As there are no specific time frames or other criteria set out in Policy DM5, this approach would comply with its requirements. These provisions of the UU would be sufficient to ensure that the houses would initially be offered to people with a local connection to the Parish.
26. The household income cap to be placed on potential applicants was discussed at the inquiry. Based on local incomes across the borough the Council suggested that a cap of £60k/annum would be appropriate. The appellants contended that the additional cost of housing in Chobham justified a higher figure, particularly as the LHNA had identified that the level of income required to buy in the part of the borough in which Chobham lies is £72k/annum. However, the appellants advocated a cap of £80k/annum, to address the particularly high cost of housing in Chobham and to provide consistency with the Government's figure set out in the Capital Funding Guide. Their housing updated survey used this figure to estimate the number of households who would be eligible to access their scheme. However, it would provide preferential access to some who could access open market homes elsewhere in the borough. Whilst this would enable them to meet their aspirations, to my mind it would go beyond the purpose of affordable housing which is to provide for those whose needs are not met by the market.

27. The final point of contention related to the marketing period during which a qualifying buyer could come forward and exchange contracts on one of the DMS homes. The period of 9 months for the First Disposal would be consistent with the demand for the properties which the appellants have identified through their surveys. This could be considered reasonable. However, for Subsequent Disposals the UU sets out that there would be a limit of 20 weeks between the requirement to serve notice on the Council that the marketing period had commenced and the date at which contracts with the prospective purchaser had been exchanged. Beyond that period and provided the other appropriate obligations within the UU had been complied with, the owner would be entitled to sell to a qualifying buyer with no local connection².
28. I am concerned that 20 weeks may prove to be an insufficient period in which to find a prospective purchaser, for them to secure a mortgage and to enable contracts to be exchanged. I accept that some sellers would be willing to conclude the sale beyond the 20-week period if they had found a suitable buyer. They might, therefore, not undertake any additional marketing. However, if no purchaser came forward early in the sales period, or a sale fell through, it would be more difficult to find a buyer who meets the local connection criterion within the time frame set out in the UU. In these circumstances and having regard to my earlier conclusions about local need, I consider that marketing the properties to people beyond the Parish would be highly likely to take place in the future. In the absence of qualifying buyers who meet the local connection requirement there would be a gradual erosion of the occupants' local connection with the Parish over the longer term.
29. My attention was drawn to the development at the former Little Heath Nursery, also within the Parish. This scheme, completed in 2018, provided affordable rented properties through a registered social landlord. However, there was evidence that some have been let to people without a local connection to the Parish. This suggests that this development contributed to meeting the wider needs for affordable rented homes in the borough, rather than solely addressing Parish based needs. It seems equally probable that this weakening of the local connection would occur with the appeal proposal as demand for DMS housing may well arise from those who live elsewhere in the borough and beyond.
30. Taking all these considerations into account, I conclude that there is insufficient certainty that the development would provide affordable housing for local people in perpetuity. The proposal therefore fails to comply with criterion (iii) of Policy DM5.

c) Criterion (ii)

31. This states that rural exception sites can only be justified if the need which has been identified cannot be met within the settlement boundary.
32. The Rugby Club is currently occupying a site within the settlement boundary. It is actively looking for a larger site. The Parish Council supports the possibility of this site being allocated for housing and providing a mix of market and affordable housing. It could accommodate up to 90 homes. However, there is no developer in active negotiations with the Borough Council. No planning applications have been submitted for the existing site or its replacement. It is

² Paragraphs 1.7.7. of the UU, subject to compliance with 1.7.5.2-1.7.5.4.

likely to be several years before such a proposal could come to fruition and gain consent. In these circumstances, any identified need for DMS housing in the Parish is not going to be met within the settlement boundary in the near future.

33. The proposal therefore complies with criterion (ii) of Policy DM5.

d) *Criterion iv)*

34. There was no dispute between the main parties that this requires sites to immediately adjoin an existing settlement and be accessible by modes other than the car. However, the Mincing Lane Protection Group expressed concerns about the inadequacy of the pedestrian facilities in Mincing Lane and the poor availability of public transport in the wider area. In their view this would make residents of the proposal overly dependent on a car to access the services and facilities that they need on a day-to-day basis.

35. I accept that there are no footways on Mincing Lane to the north of the appeal site where it functions as a country lane. However, although restricted in places, there is a footway from the site towards the village where there are a number of shops within a short walking distance. The Co-op and other shops, pubs and restaurants are a little further away in the centre of the village. The route to them could involve crossing Windsor Road or the High Street. The roads running north-south and east-west through the village are busy so negotiating the area on foot requires care and attention. Nevertheless, there are a wide range of facilities within walking and cycling distance. Travelling further afield is likely to be more convenient by car as public transport services are limited.

36. I am therefore satisfied that the site complies with the requirements of criterion (iv) of Policy DM5.

e) *Findings*

37. I have found that there was insufficient evidence to demonstrate a proven local need for the 22 DMS homes within the appeal scheme. I also found that the UU provided insufficient certainty that these homes would be provided for local people in perpetuity. Consequently, the proposal would fail to meet criteria (i) and (iii) of Policy DM5. In addition, it would fail to deliver 100% affordable housing. It would therefore fail to meet the development plan's requirements to constitute a rural exception site, notwithstanding its compliance with criteria (ii) and (iv).

38. In coming to this view, I am aware that there is a tension between the Framework's objectives for providing affordable housing in rural areas (set out in paragraph 78) and its approach to rural exception sites in the Green Belt, where paragraph 149 f) makes no reference to the possibility of open market dwellings to facilitate delivery. The proposal would therefore conflict with the development plan and paragraph 149 f) of the Framework.

39. I therefore conclude the proposal is inappropriate development in the Green Belt, contrary to local and national policy to protect it. This is a matter to which the Framework requires me to attach substantial weight.

Openness and Green Belt purposes

40. Paragraph 137 of the Framework sets out the Government's overall aims for protecting the essential characteristics of the Green Belt. Paragraph 138 sets out the five purposes which the Green Belt serves. It was common ground that the main issue for the appeal proposal is its effect on openness and the extent to which it encroaches into the countryside (purpose c)).
41. The appeal site is currently free of built form with the exception of a dilapidated garage. It contains trees of varying degrees of maturity and is otherwise undeveloped and partially overgrown. The scheme would retain elements of the boundary vegetation and would manage an area of woodland on the western side of the site. However, it would introduce 30 dwellings together with access roads, footways, and areas of hard standing. This would result in a significant loss of openness which would be experienced both spatially and visually, which weighs heavily against the scheme.
42. The appeal site lies within Parcel G45b of the Council's Green Belt and Countryside Study. This area is characterised by open fields, groups of trees, dispersed farm buildings and scattered residential dwellings. The proposal would result in the expansion of the village and the encroachment of buildings into the countryside. Although its effect on the wider countryside would be limited it would nevertheless represent a degradation of the Green Belt in this locality. This would be harmful and would conflict with purpose c). It is therefore a factor that weighs moderately against the scheme.

Character and appearance

43. The new dwellings would be a series of small blocks separated by gaps set in a staggered cluster surrounding a central communal green space. The layout proposes entry via Mincing Lane and egress via Medhurst Close. Pedestrian links based on desire lines would pass through the site and provide permeability for both residents and the wider public. The layout and circulation would be attractive and functional.
44. Whilst most of the buildings would be two storeys, three of the blocks would be three storeys. I accept that this would be at odds with the prevailing character of the surrounding area which is entirely two-storey. This additional height would mostly be experienced from within the site and by pedestrians walking through it. A notable proportion of the site would be retained as woodland and enclosed by existing vegetation and trees. This would ensure that the site remained visually self-contained. Consequently, views of the southern three storey blocks would only be apparent from Medhurst Close and through the intervening trees which mark the site boundary. The remaining block would be partially visible from a distance across the open field to the north of the site. It would not appear dominant from any of the public footpaths.
45. In this context I consider that the proposed design and layout is a good scheme that has struck an appropriate balance between the footprint of the buildings and their proposed heights. It would ensure that the dwellings would be adequately spaced providing visual links between the inner communal and shared spaces and the less formal elements to the rear of the buildings. In my view this represents an attractive and suitable design solution for a site which occupies a transitional location on the edge of the existing built-up area.

46. Furthermore, the three storey blocks proposed would not be unique within Chobham. Although more centrally located in the village, the development at Windsor Court is a combination of two storey terraced dwellings and three storey apartments surrounding a small but attractive area of public open space. This appears to work well both visually and functionally.
47. I therefore conclude that the proposal is a well-designed, high quality scheme that would not harm the character and appearance of the area. It would comply with Policies CP2 and DM9 of the Core Strategy which seeks high quality development which creates a strong sense of place with linkages to the surrounding area, respects its setting by having particular regard to scale, massing, bulk and density, retains trees and vegetation and is resilient to climate change.

Other Matters

48. The proposed egress from the development would result in additional vehicles passing through Medhurst Close between Nos 3, 3a and 4 and the parking area serving Nos 4-15. The echelon parking arrangement in front of Nos 3, 3a and 4 would require replacement by 2 spaces parallel to the footway. These changes would alter the character of this part of Medhurst Close from a cul-de-sac serving only the immediately surrounding dwellings to one serving a larger area. The change would result in a modest change of character in this locality and some minor additional noise and disturbance for the occupants of Nos 3, 3a and 4. However, the number of traffic movements would be small. These changes would not cause significant or undue harm to the living conditions of any of the neighbours.
49. The Mincing Lane Protection Group expressed concern about the wider implications of additional traffic on the surrounding roads, particularly Mincing Lane. I appreciate that as Chobham lies on a route that provides a link between the M3 and the M25 it is inevitable that it carries significant volumes of traffic. When incidents on the motorways cause additional congestion, drivers seek a variety of alternative routes and Mincing Lane can be used on such occasions. However, this is an existing issue which would not be made significantly worse by the small number of additional movements likely to be generated by the proposal.
50. The highway authority has not objected to the scheme subject to the appropriate conditions to secure access and parking arrangements. Potential danger that could arise from the creation of a two-way access onto Mincing Lane has been addressed through the proposed one-way route through the site. This would also enable the retention of vegetation along the site's eastern boundary. I am therefore satisfied that there would be no unacceptable adverse impacts on highway safety or the operation of the surrounding highway network that would cause the scheme to fail.
51. Concerns were also raised about the effects of the development on the woodland habitats and the biodiversity that the existing vegetation provides. It is accepted that there would be some loss and disturbance, during construction. However, the proposal also includes measures to enhance biodiversity in the longer term. The most important trees on the site would be retained and a long-term woodland management plan could be secured by condition. These issues do not, therefore, make the scheme unacceptable.

Other Considerations

Viability

52. The Government is seeking to significantly boost the supply of housing. This scheme would provide an additional 30 homes including 1-bedroom apartments and 3 bedroom family homes. As 22 of these homes would be DMS housing, which are in the category of affordable housing, the associated social and economic benefits may be expected to carry very significant weight in the balance. However, the scheme would include 8 open market dwellings. It is therefore necessary to consider whether these are justified in accordance with the provisions of the Framework.
53. I referred earlier to paragraph 78 of the Framework which states that local planning authorities should consider whether allowing some market housing on rural exceptions sites would help to facilitate the delivery of affordable housing. The PPG states that rural exception sites can deliver a small proportion of market housing, provide that it can be demonstrated that this is necessary to ensure the overall viability of the scheme. Paragraph 58 of the Framework sets out the context within which the decision maker should consider the weight to be given to any viability assessment.
54. The issue of the viability of the proposal was a significant area of disagreement between the parties before the inquiry. However, an updated Statement of Common Ground was submitted in the form of a letter dated 5 July 2021. This identified that the only outstanding matter in dispute related to the level of profit that should be considered appropriate for the scheme. This was addressed in considerable detail during the inquiry.
55. Social housing delivered by registered providers usually yields a profit of 6%. A DMS scheme would require properties to be sold individually at a price to be agreed when completed. This, the appellants contended, would incur significantly more risks than selling to a registered provider through staged payments at an agreed price. In their view this justified a profit level of 14%, more than double the industry standard. The appellant also sought to achieve the maximum 20% profit on the open market housing, giving a blended profit in excess of 16%. This would result in an overall profit within 15-20%, the range set out in the current PPG for all housing schemes.
56. However, as a rural exceptions site, open market homes can only be justified to facilitate the delivery of the affordable units. The Framework (Annex 2: Glossary) suggests this may be necessary on sites that are small and where it is essential to enable delivery without grant funding. This implies that a scheme should break even, rather than deliver the level of profit that would be expected within market led schemes on sites where the principal of housing is already accepted. On this basis, I consider the level of profit sought by the appellant appears excessive.
57. The Framework also makes it clear that permitting market housing within an affordable housing scheme is at the authority's discretion. The Council was prepared to accept a blended profit of a little above 10% and conceded that 3 open market homes might be needed to make the scheme viable. However, it was the appellants' choice to take additional risks and pursue the provision of a DMS scheme rather than to work with a registered provider to deliver other

types of affordable housing. I was therefore not persuaded that 8 open market dwellings would be required to make the scheme viable.

58. In my view the scheme has failed to maximise the opportunity to provide affordable housing. This is particularly regrettable given the extent of the current national housing crisis and the Council's record of delivering affordable homes. Although this limits the weight that I can give to the benefits of providing the additional homes, I still give them significant weight in my overall assessment of the scheme.

Sustainable design and construction

59. The scheme, which is being promoted by an award-winning charity with a track record in building sustainable homes, has been designed to significantly reduce carbon production above and beyond the current requirements of the building regulations. Furthermore, the design and layout are high quality and reflect the Framework's objective of promoting good design. These are matters in the scheme's favour that attract significant weight. The development would contribute to wider sustainability objectives and deliver biodiversity gains. I consider these benefits attract modest weight.

Off-site effects

60. The proposal would not have unacceptable impacts on neighbours' living conditions, highway and pedestrian safety or the operation of the highway network. However, the lack of harms in these respects are not factors in the scheme's favour.

The Green Belt Balance

61. I have found the scheme to be inappropriate development in the Green Belt. I have also found that it would harm the openness of the Green Belt and would give rise to limited encroachment into the countryside. The Framework requires me to give these collective harms substantial weight.
62. Considered together, the benefits of the scheme outlined above carry very significant weight. However, these other considerations do not clearly outweigh the substantial harm I have identified due to inappropriateness, loss of openness and encroachment into the countryside. Consequently, the very special circumstances to justify the proposal do not exist.

Planning balance

63. The Council is unable to demonstrate a 5-year supply of deliverable housing sites. Consequently, paragraph 11 d) of the Framework is engaged. However, the application of policies in the Framework that protect the Green Belt [one of the areas referred to in footnote 7 to paragraph 11 d) i)] provides a clear reason for refusing the development proposed. The presumption in favour of sustainable development therefore does not apply in this case.

The Thames Basin Heaths SPA

64. The UU made provision for contributions towards mitigation measures necessary to protect the TBHSPA, a Habitats Site designated for its importance to ground-nesting birds (nightjar, woodlark and Dartford warbler). However, as I am dismissing the appeal for other reasons it has not been necessary for me to address this matter any further.

Conclusions

65. I conclude that the proposal conflicts with the development plan and other material considerations do not indicate that the appeal should be determined otherwise. For this reason, the appeal is dismissed.

Sheila Holden

INSPECTOR

APPEARANCES

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discussions:*

David Thomas

Chris Flynn

INTERESTED PERSONS:

Chris Hammonds

Local resident

Jonathan Percy

"

Siobhan DeDoncker

"

Summa Chesterman

"

Tabitha McBride

"

Cllr Emma Kennedy

Chobham Parish Council

Caroline Cooper

"

Sue Riddlestone

Bioregional

DOCUMENTS SUBMITTED DURING THE INQUIRY

- CD 16.1 Appellants opening statement
- CD 16.2 Council's opening statement
- CD 16.3 Rule 6 Party (Mincing Lane Protection Group) opening statement
- CD 16.4.1 Mr Chamman's letter of support page 1
- CD 16.4.2 Mr Chamman's letter of support page 2
- CD 16.5.1 Email MLPT re biodiversity condition
- CD 16.5.2 Alternative biodiversity condition with MLPG amendments (not taken)
- CD 16.6.1 S de Doncker email 1 dated 26/08/21
- CD 16.6.2 S de Doncker email 2 dated 27/08/21
- CD 16.7 Final schedule of conditions 27/08/21
- CD 16.8.1 email M Fairchild re mortgages
- CD 16.8.2 email M Fairchild further information re mortgages
- CD 16.9 SoCG addendum
- CD 16.10.1 Final Parish Council statement re Rugby Club
- CD 16.10.2 Final Parish Council UU representation
- CD 16.11 Little Heath Nursery price list
- CD 16.12 Final Parish Council representations on the UU
- CD 16.13 Statement by Sue Riddlestone re community led process
- CD 16.14 Council's closing submissions
- CD 16.15 MLPG closing submissions
- CD 16.16 Appellants closing submissions
- CD 15.4 Updated UU submitted on 24/08/21 and updated again on 27/8/21