



Appeal Decision

Hearing held on 18 January 2022

Site visit made on 19 January 2022

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Appeal Ref: APP/L3625/W/21/3271384

Oak Tree Farm, Croydon Lane, Banstead SM7 3BE

- 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 Charterpoint (Banstead) Limited & Premier Fruits (Covent Garden) Limited against the decision of Reigate & Banstead Borough Council.
 - The application Ref LO20/01799/F, dated 21 August 2020, was refused by notice dated 29 January 2021.
 - The development proposed is the redevelopment of the site to provide 10 dwellings (Use Class C3), alterations to the existing access onto Croydon Lane, hard and soft landscaping, and other associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for the redevelopment of the site to provide 10 dwellings (Use Class C3), alterations to the existing access onto Croydon Lane, hard and soft landscaping, and other associated works at Oak Tree Farm, Croydon Lane, Banstead SM7 3BE, in accordance with the terms of the application, Ref LO20/01799/F, dated 21 August 2020, and the plans submitted with it, subject to the conditions at the end of this decision.

Background and main issue

2. Both parties agree that the site of this former commercial nursery and plant centre, with lawful use for horticulture, light industry, retail, and storage, is previously developed land. From what I have read and heard of the planning and land use history, I have no reason to disagree. Therefore, the main issue is whether the proposed development would be inappropriate development in the Green Belt.

Reasons

3. Policy CS3 of the Council's Core Strategy 2014 (CS) says that planning permission will not be granted for inappropriate development in the Green Belt unless very special circumstances clearly outweigh the potential harm to the Green Belt.
 4. The National Planning Policy Framework (the Framework), in paragraph 147, indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It is agreed that the site is previously developed land, in which case bullet point (g) of paragraph 149 of the Framework applies. It describes the partial or complete redevelopment of previously developed land, whether redundant or in
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continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development, as an exception to the presumption that the construction of new buildings in the Green Belt should be regarded as inappropriate.

5. Spatial impact on openness: There is no dispute about the spatial impact of the proposed development. It would amount to a substantial reduction in the footprint and volume of buildings, and a marginal reduction in the area of hardstanding, over the existing development. Specifically, a reduction in built footprint from around 5,225m² to 1,891m² or a cut of 64%; a reduction of building volume from around 14,507m³ to 8,354m³ or a cut of 42%; and a reduction of hardstanding from around 2,900m² to 2,823m², a cut of 3%. In purely superficial and volumetric terms therefore, the proposal would have a substantially lesser impact on openness compared to the existing development.
6. Visual impact on openness: The measure of openness is not confined to the consideration of spatial dimensions; the visual effects of the height, footprint and form of buildings, their positions on the site and their arrangement or layout, as well as the use of the spaces around the buildings, also have a bearing on openness.
7. The Council rightly pointed out that the height of the proposed houses would be greater than the height of the present polytunnels. The polytunnels are relatively low, and appear semi-circular in section, with a height of between around 2.3m and 3.9m, whereas the ridges of the houses would be higher than the tunnels at between around 5.6m to 8.6m above ground. However, the footprint of the taller houses would be substantially less than the footprint of the shorter polytunnels. Moreover, the pitched roofs of the houses and their generally low eaves would diminish the effect of their ridge heights. In quantitative terms, the visual effect of height on the openness of the Green Belt would be less in the proposed development than the present buildings.
8. Another factor I saw on-site is that the land is low compared to the landscape which surrounds it. In effect, the site lies in a bowl with relatively steep sides. The effect of the additional height of the houses on openness, rather subsumed as they would be by the rising sides of the bowl and concentrated around the low point within the site, and sited generally on the footprint of the existing structures, would therefore be diminished.
9. Furthermore, unlike the present structures which are generally broad, low and long and clustered together in rows, the proposed buildings, though taller, would have smaller, more compact footprints. They would be substantially more spaced apart, with different alignments and roof forms. This arrangement would allow greater and more continuous sections of vertical space between the houses which is scant in the present arrangement of long, low structures whose spatial benefit is confined largely to the free horizontal space above their long, low ridges. In the topographical context of the rising hillsides beside them, which tends to contract the space in the bowl, the spatial permeability of the proposed forms and their arrangement would have a lesser visual impact on openness than the present development.
10. I appreciate the Council's point that most of the polytunnel structures are uncovered and the greenhouses largely unglazed. I saw that there is a marked difference in appearance between the covered and uncovered tunnels. However, the skeletal structures of the tunnels and greenhouses, which contain

closely set frames with intermediate columns and braces supporting ridges, even while uncovered and unglazed, still enclose space. I saw that many contained ancillary equipment like tanks, pipes, staging, and small plant. The lack of enclosing covering and glazing does not, in my view, materially lessen their visual effect on openness, as distinct from their visual effect on the appearance of the area. Nor does this materially lessen their spatial effect on openness. I have therefore taken account of them, covered or uncovered, glazed or unglazed, in considering the overall spatial and visual impact on openness.

11. Furthermore, considerably taller than the low polytunnels and greenhouses on the site is a pair of buildings enclosing part of the east boundary, which would be replaced by an open, landscaped area. While these buildings are shorter than the proposed houses, their siting, aligned with adjoining structures, effectively encloses the north-east corner of the site from the surrounding land and the public footpath alongside it. Their removal and replacement by green space would lessen the enclosing, boundary effect on that side of the site. Taking all these facets of the proposal's visual effects into account, it would have a lesser visual impact on openness than the existing development.
12. Activity and hardstanding: Both parties agree that the proposal would generate fewer traffic movements and less activity on site than the consented use. Moreover, even if the storage and repair businesses which are active on site and which I saw already have a degree of parking and traffic movement associated with them were considered in isolation, the proposal would have a more positive impact on openness, albeit small, in terms of activity in relation to the distribution of hardstanding, over the present situation.
13. This is because the proposed layout would disperse the area of hardstanding presently concentrated towards the most visible section of the site, beside Croydon Lane, right across the developed area, between the houses, and with parking generally contained either in front gardens or in garages. I appreciate that the domestic paraphernalia and the activity which accompanies residential use can affect openness, but here this would be largely confined to the private areas behind the houses.
14. Duration and remediability: The parties agree that given the permanent nature of the existing development, and the permanent nature of housing, the impact of the proposal in terms of duration and remediability is a neutral one. I agree.
15. Drawing all these factors together, I conclude on this issue that the proposed development would not have a greater impact on the openness of the Green Belt than the existing development. It would not therefore be inappropriate development in the Green Belt. There would be no conflict with paragraph 147 of the Framework, nor with CS policy CS3, where they seek to preserve the openness of the Green Belt from inappropriate development.

Other matters

16. I have taken into consideration the representations of local residents and interested parties. I understand their concern for the Green Belt, to the protection of which the Government attaches great importance. However, this site is previously developed land. I have applied the tests in local and national policy and concluded that, though the proposal would include the construction

of new buildings, for the reasons given above, it would not be inappropriate development in the Green Belt.

17. While there is no dispute of the Council's ability to provide a 5-year housing land supply, it relies on windfall developments such as this. Moreover, there is no circumscribed upper limit on housing supply, to which the Government anticipates a significant boost, and to which this proposal would contribute.
18. I acknowledge that the appeal site lies outside any settlement boundary which suggests that future occupiers would be likely to rely on their own private transport to access services and facilities. However, there are bus stops with services to Banstead and Croydon every 20-30 minutes, within 400m of the site, to which the new footway would connect. This would ensure that future occupiers are able to safely access the well-provided local bus services, which would make alternative forms of transport to the private car a realistic and attractive prospect, for at least some journeys.
19. Where car journeys would be needed, because of the proximity of Banstead, around 2 miles away, they would, at least, be relatively short. The Framework recognises in paragraph 105 that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas, which should be taken into account in decision-making, and it supports in paragraph 120 the development of under-utilised land and buildings, such as here.
20. I appreciate that road safety is an important consideration. However, while the nursery was operational, only two minor collisions occurred by the site, both attributed to driver error. Significantly, the proposed development would generate substantially fewer vehicle movements than the consented use of the site, which would reduce risks at the site access. Nor would the number of trips generated by the development have a severe impact on the flow of traffic on local roads, compared to the consented use.
21. Notwithstanding this, the site entrance would be reconfigured to modern standards, and a new, public footway provided from the site entrance to the existing footway to the west. Moreover, the County Highway Authority has raised no objection to this proposal, which was modified following their consultation. The Council has confirmed that the development would be liable for Community Infrastructure Levy and would be required to make the appropriate payments. The proposed development would result in a small gain in biodiversity over the present use of the site, and a substantial improvement over the consented use, in accordance with paragraph 174 of the Framework.
22. I appreciate the semi-rural character of the location. However, in my view, the combined effect of the change from commercial use to residential use, together with the spacing of the houses, the retained and new informal areas of green space and new tree planting around the periphery of the site which would increase the landscaped areas in the site from 57% to 75%, would soften the development into its green setting.
23. The houses would take their design cues from the rural vernacular, while avoiding slavish reproduction and repetition of house types. Across the scheme are variations in form and scale as well as architectural points of reference. With links to the public footways and access to substantial areas of communal green space, the scheme would make an attractive, welcoming and distinctive place to live, meeting the place-making objectives of paragraph 130 of the Framework.

24. I have found that the proposal would not be inappropriate development in the Green Belt. Moreover, I can identify no harm that would outweigh the significant weight I give to the environmental benefits of the proposal, including the effective recycling of previously developed land and the quality and sensitivity of its design in relation to the landscape and to biodiversity, as well as the social benefit of 10 new homes and the economic benefit from the spending of future occupiers in the local economy and from the employment and skills returns from its construction.

Conditions

25. I have considered the conditions suggested by the appellant and those agreed in the Statement Of Common Ground against the advice in the Planning Practice Guidance (PPG). I have generally applied the agreed conditions as drafted, save for minor alterations to avoid the risk of ambiguity. I have added a condition regarding the timing of parking spaces beside the barn, and a second to restrict permitted development rights, as discussed in the Hearing and indicated as acceptable by both parties.
26. In addition to the statutory time condition [1], a condition [2] listing the approved drawings is needed to ensure clarity on what has been permitted. The reptile survey found common lizards on the site which warrants a condition [3] to secure a Reptile Mitigation Strategy to protect them during construction and to ensure their safe relocation into new habitat on-site. This needs to bite before any site clearance works begin.
27. A construction management plan condition [4] is necessary, to which I have added a working hours clause to protect the amenity of nearby occupiers, and to safeguard highway safety, though given the size of the site, the suggested clauses for personnel parking and materials storage are unnecessary. Because of the sensitivity of the landscape to change and to protect retained planting and trees, a landscaping condition [5] is needed. These conditions need to come into effect before development commences, to make them effective.
28. To reduce the effect of the development on the environment, a condition [6] requiring surface water to be disposed of following sustainable drainage principles is required. This needs to be addressed before ground works begin, to avoid disruption to the programme. A condition [7] for details of the external materials of the houses is needed, though this need not be resolved before construction rises above slab level.
29. The site layout includes a cluster of isolated parking spaces to serve the potential occupiers of or visitors to the existing barn which is ear-marked for conversion to a Class E use. Without certainty that the conversion will take place, the 6 spaces in an otherwise open and green part of the completed site would be unacceptable because of the risk of further parking on a site with a sensitive landscape and ample parking for the housing development. An 'unless and until' condition [8] is therefore necessary to make the layout acceptable in planning terms. A verification condition [9] is needed to ensure the effectiveness of the sustainable drainage scheme. To provide safe access at the entrance to the site, a condition [10] to alter its configuration is necessary.
30. I saw for myself the speed of traffic on the Croydon Lane and how the bends and dip in the road would deter all but the most quick-witted and light-footed from trying to cross it to reach the footway on the opposite side, even in good weather and light. Therefore, to ensure future occupiers will have a safe, attractive, alternative means from the car to travel into Banstead and to reach

the bus stops to the west of the site, a new footway to connect from the site entrance to the existing footway to the west is essential to mitigate the development's effect on the environment and to prevent social exclusion.

31. Ensuring that development provides all road users, including pedestrians, cyclists and the more vulnerable with safe and convenient access that does not increase the risk of accidents is a requirement of policy TAP1 of the Reigate & Banstead Local Plan Development Management Plan 2019. I have therefore applied condition [11] to secure this.
32. Conditions to ensure that parking and turning spaces endure [12], are necessary. Conditions [13] and [14] for the provision of broadband and vehicle charging infrastructure are needed to enable people to connect to digital services and to have the option to use transport not powered directly by fossil fuel. For safe movement of people within the site, a condition [15] is necessary to ensure that footways are at least 2m wide. A condition [16] requiring confirmation of the energy and water performance standards the development will achieve, to reduce the impact of the development on the environment is necessary. These conditions do not need to be resolved before occupation.
33. I have imposed two performance conditions. Condition [17] is needed to ensure the layout and the houses themselves meet minimum security standards in order to reduce crime. A condition [18] to secure the implementation of the mitigation measures identified in the Ecology Report is necessary to mitigate the effect of the development on the biodiversity of the site. Finally, while the Framework indicates that planning conditions should not be used to restrict national permitted development rights, because of the site's location in the Green Belt and my conclusions above about the permeability of the space between the dwellings and the effect of their roof forms on openness, a condition to remove permitted development rights for enlargements and free-standing buildings is necessary. Condition [19] would not prevent such development, but would bring it under planning control.

Conclusion

34. For the reasons above, and taking account of all matters raised, I conclude that the appeal should be allowed.

Patrick Whelan

INSPECTOR

Appearances

FOR THE APPELLANT:

Rebecca Clutten, of Counsel

Mark Krassowski BA (Hons) BSc MRICS

Steve Wilson BA (Hons) Dip LA

Francis Taylor Building

Managing Director, Walsingham Planning

Director, Portus & Whitton

FOR THE LOCAL PLANNING AUTHORITY:

Lesley Westphal

Reigate & Banstead Borough Council

Late evidence (from the appellant)

Location Plan for 16/02209/RET

Sketch site plan pre-app SK(9)939

Planning Benefits Comparison Table

Amended drawing showing proposed area calculations 2949 C 1022 PL C

Amended Statement of Common Ground

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following, approved drawings:

2949-A-1000-PL Rev A	Location Plan
24717_01_T Rev 3	Topographical Survey
2949-A-1006-PL Rev A	Existing Building Plan
2949-C-1005-PL Rev A	SITE LAYOUT
1660 L1 Rev C	Landscape Mitigation Plan
2949-C-1010-PL Rev C	STREET ELEVATIONS A-A & B-B
2949-C-1011-PL Rev C	STREET ELEVATIONS C, D & E
2949-C-3000-PL Rev E	TYPE 4BH-Plot 1 Plans & Elevations
2949-C-3005-PL Rev D	FARM HOUSE-Plot 2 Plans & Elevations
2949-A-3010-PL Rev D	TYPE 5BH1-Plot 3 FLOOR PLANS
2949-C-3011-PL Rev C	TYPE 5BH1-Plot 3 SECTION & ELEVATIONS
2949-A-3015-PL Rev B	Type 4BH1-Plot 4 Floor Plans
2949-C-3016-PL Rev B	Type 4BH1-Plot 4 Section & Elevations
2949-C-3020-PL Rev D	BUNGALOW-Plot 5 Floor plans & Elevations
2949-C-3025-PL Rev A	BUNGALOW-Plot 6 Floor plans & Elevations
2949-A-3030-PL Rev E	Type 5BH2-Plot 7 Floor Plans
2949-C-3031-PL Rev C	Type 5BH2-Plot 7 Section & Elevations
2949-A-3035-PL Rev C	Type 4BH2-Plot 8 Floor Plans
2949-C-3036-PL Rev B	Type 4BH2-Plot 8 Section & Elevations
2949-C-3040-PL Rev A	Type 4BH3-Plot 9 Plans & Elevations
2949-C-3045-PL Rev A	Type 4BH3 - Plot 10 Plans & Elevations
ADC2443-DR-001 Rev P7	Proposed Access Junction Layout

PRE-START/GROUNDWORKS/SLAB ETC CONDITIONS

- 3) No site clearance works shall start, and no development shall commence, until a detailed Reptile Mitigation Strategy addressing measures outlined in the Ecology Report by Applied Ecology, August 2020, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved strategy.
- 4) No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of:
 - a) The programme of works including measures for traffic management
 - b) hours and routes for deliveries to, and collections from, site
 - c) provision of boundary hoarding behind any visibility zones
 - d) measures to prevent the deposit of materials onto the highway
 - e) before and after construction conditions surveys of the highway and a commitment to fund the repair of any damage caused
 - f) on-site loading, collection, and turning zones for construction vehicles
 - g) hours of working on-siteThe development shall be carried out in accordance with the approved CMP.

- 5) No development shall commence until a scheme for the landscaping of the site including the retention of existing landscape features has been submitted to and approved in writing by the local planning authority. The landscaping scheme shall include details of hard and soft landscaping, including boundary treatment/fencing, any tree removal/retention, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities and an implementation and management programme.

All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to the occupation of the development or within the first planting season following completion of the development hereby approved or in accordance with a programme agreed in writing with the local planning authority.

All new tree planting shall be positioned in accordance with guidelines and advice contained in the current British Standard 5837. Trees in relation to construction. Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or diseased within five years of planting shall be replaced within the next planting season by trees, shrubs of the same size and species.

- 6) No groundworks shall commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The design must satisfy the sustainable drainage system (SuDS) hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, National Planning Policy Framework, and Ministerial Statement on SuDS. The required drainage details shall include:
- a) the results of infiltration testing completed in accordance with BRE Digest 365 in the location of the proposed soakaways and confirmation of groundwater levels.
 - b) evidence that the proposed final solution will effectively manage the 1:30 and 1:100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development. The final solution should follow the principles set out in the approved drainage strategy. If infiltration is deemed feasible, associated discharge rates and storage volumes shall be provided using a maximum discharge rate equivalent to the predevelopment, greenfield run-off rate.
 - c) detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels and long and cross sections of each element including details of any flow restrictions and maintenance /risk reducing features (silt traps, inspection chambers, etc).
 - d) a plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected.
 - e) details of drainage management responsibilities and maintenance regimes for the drainage system.

- f) details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.

The development shall be carried out in accordance with the approved details.

- 7) No development shall take place above ground floor slab level of any house until written details of the materials to be used in the construction of the external surfaces, including windows, doors and roofs, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) Notwithstanding the site layout as shown on approved plan 2949-C-1005-PL Rev A SITE LAYOUT, the proposed group of 6 parking spaces adjacent to the retained timber barn, shall not be constructed unless and until the timber barn is brought into a use falling within Class E (Commercial, Business and Service) of the Town and Country Planning (Use Classes) Order 1987, as amended.

PRIOR TO OCCUPATION CONDITIONS

- 9) The development shall not be occupied until a sustainable drainage verification report carried out by a qualified drainage engineer shall have been submitted to and approved in writing by the local planning authority. This must demonstrate that the sustainable drainage system has been constructed as per the agreed scheme (or detail any minor variation), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
- 10) The development shall not be occupied until the proposed bell mouth vehicular access to Croydon Lane (A2022) has been constructed, in accordance with the approved plan ADC2443-DR-001 Rev P7 Proposed Access Junction Layout.
- 11) The development shall not be occupied until a 2-metre-wide footway has been provided along the entire length of the Croydon Lane site frontage to join the existing footway west of the site in accordance with the approved plan ADC2443-DR-001 Rev P7 Proposed Access Junction Layout.
- 12) The development shall not be occupied until space has been laid out within the site in accordance with approved plan 2949-C-1005-PL Rev A SITE LAYOUT for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- 13) The development shall not be occupied until all the dwellings have been provided with the necessary infrastructure to facilitate connection to a high-speed broadband. Unless otherwise agreed in writing with the local planning authority, this shall include as a minimum:
 - a) A broadband connection accessed directly from the nearest exchange or cabinet
 - b) Cabling and associated installations which enable easy access for future repair, replacement or upgrading.

- 14) The development shall not be occupied until each of the dwellings are provided with a fast-charge electric vehicle charging point 7kw Mode 3 with Type 2 connector -230v AC 32-amp single phase dedicated supply in accordance with a scheme to be submitted and approved in writing by the local planning authority. The charging points shall thereafter be retained for vehicle charging.
- 15) The development shall not be occupied until, and notwithstanding the approved plans, 2-metre-wide footways have been provided within the site in the arrangement shown on the approved plan 2949-C-1005-PL Rev A SITE LAYOUT.
- 16) The development shall not be occupied until an Energy and Water Efficiency Statement has been submitted to and approved in writing by the local planning authority. The Statement shall detail how the development will:
 - a) Ensure that the potential water consumption by occupants of each new dwelling shall not exceed 110 litres per person per day
 - b) Achieve not less than a 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) as defined in Part L1A of the 2013 Building RegulationsThe development shall be carried out in accordance with the approved details and any measures specific to an individual dwelling shall be implemented, installed and operational prior to its occupation.

PERFORMANCE CONDITIONS

- 17) The development shall achieve the standards contained within the Secured By Design award scheme.
- 18) The development shall be carried out in accordance with the mitigation, compensation and enhancement strategy contained within the Ecology Report by Applied Ecology dated August 2020 in relation to biodiversity enhancements.

RESTRICTIVE CONDITION

- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or enlargements or porches as provided for within Schedule 2, Part 1, Classes A, B, and D, and no buildings etc. as provided for within Schedule 2, Part 1, Class E of that Order shall be constructed.

END OF SCHEDULE OF CONDITIONS