



Appeal Decision

Hearing held on 22 October 2024

Site visit made on 23 October 2024

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2024

Appeal Ref: APP/Z3635/W/24/3343497

Land off Hazelwood Drive, Sunbury on Thames TW16 6QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Bellway and Angle Property (Sunbury) LLP against the decision of Spelthorne Borough Council.
 - The application Ref is 23/00070/FUL.
 - The development proposed is described as 'planning application for residential development comprising 67 units with the provision of landscaping, access, parking and associated works'.
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Decision

1. The appeal is allowed, and planning permission is granted for residential development comprising 67 units with the provision of landscaping, access, parking, and associated works at land off Hazelwood Drive, Sunbury on Thames TW16 6QU in accordance with the terms of the application 23/00070/FUL subject to the conditions in the attached schedule.

Preliminary Matters

2. The parties submitted an agreed statement of common grounds (SoCG) dated 4 October 2024. Within the SoCG it is agreed that the waste and recycling strategy and ecology reasons for refusal can be resolved by the imposition of appropriate conditions. In respect of these matters, the parties confirmed at the hearing that subject to conditions the proposals would comply with Policies EN1 and EN8 of the Core Strategy and Policies DPD 2009 (Core Strategy). It is also agreed in the SoCG that matters indicated as unresolved in the Council officer's report to committee namely the housing mix, open space provision/ layout, parking provision and landscaping are acceptable to the Council. Having regard to the evidence before me I see no reason to disagree.
3. The appeal site lies outside the existing settlement of Sunbury on Thames within the designated Green Belt as defined on the proposals map of the Core Strategy. It was agreed at the Hearing that the proposals do not come within any of the exceptions set out in Paragraph 154 of the National Planning Policy Framework (the Framework) nor does the development fit into one of the categories set out in saved Policy GB1 of the Spelthorne Borough Local Plan 2001 (LP) as a use appropriate to the Green Belt.
4. It is common ground that the proposals represent inappropriate development in the Green Belt which according to the Framework is, by definition, harmful and should not be approved except in very special circumstances. The

development therefore conflicts with saved Policy GB1 of the LP and the Framework, both of which seek to protect the Green Belt.

Main Issues

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

- The effect of the development on the openness of the Green Belt;
- The effect of the development on Green Belt purposes;
- Whether any 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

The effect of the development on openness

6. The Planning Practice Guidance explains that assessing the impact of a proposal on the openness of the Green Belt requires a judgement based on the circumstances of the case. The courts have identified that openness is capable of having both spatial and visual aspects. The duration of the development and its remediability as well as the degree of activity likely to be generated, such as traffic may also be relevant. With reference to case law the spatial aspect of openness is normally concerned with the quantum of development proposed relative to what is already there, whereas the visual assessment is focussed on how openness is experienced before and after the proposal.
7. The appeal site comprises undeveloped land with an unsurfaced access track through it. The appellants argue that the distribution of the development and the incorporation of open space within it would reduce the impact of the development on spatial openness. However, spatially the erection of 67 dwellings with the accompanying plots, estate roads and other hard infrastructure, would introduce a significant amount of development, at heights up to three storeys resulting in development across the site and at a large scale. Consequently, spatial openness would be substantially and harmfully eroded.
8. The Council refers to the appeal site as grassland and there is a grassed area to the Hazelwood Road frontage with a number of mature trees within it. However, the site is largely enclosed by fencing and within that fenced area the appeal site is overgrown with larger shrubs and bushes. In terms of visual openness, the appeal scheme would markedly extend the envelope of residential development into an area of open undeveloped land. Existing views from Hazelwood Drive frontage across the site towards School Walk are towards mature trees with few urban influences within the field of vision, albeit the area is contained by existing residential development, footpaths, leisure uses and the road network.
9. The proposed development would be set back from Hazelwood Drive but the large frontage dwelling blocks, with limited space between them, would be prominent from the road. The open space and trees in the foreground of the dwellings would be punctuated with paths and the adopted highway, which would draw the eye to the development. From School Walk, the dwellings would be seen at close range. The proposed rear garden boundaries adjacent

to the footpath and the foreshortening of views across the land due to the arrangement of buildings would plainly alter the visual openness of the site when viewed from the public footpath.

10. Furthermore, despite the range of vegetation adjacent to School Walk the development would be of a height and form that would be visible from within the adjacent allotments and cemetery grounds. In addition, when viewed from the adjacent residential properties on Lyndhurst Avenue, from the scout/guide meeting rooms which abuts the appeal site and from within the adjoining car park of the rugby training ground, the volume and extent of the development would be apparent. Therefore, the dwellings and associated infrastructure of the appeal scheme would influence the views from all adjacent surrounding land.
11. Existing trees and vegetation retained at the boundaries and a suitable landscaping scheme would soften some elements of the built form. However, given the heights of buildings and the proximity of dwellings to the site boundaries, landscaping would play a small role in minimising the visual impact of the development from the immediate surrounding land.
12. In longer range views, from Halliford Road, from the public footpath further along School Walk to the west of the appeal site and from within the estates of Lyndhurst Drive and Croysdale Avenue, the effect of the development on visual openness would be limited by intervening buildings and landscaping. Nevertheless, the proposals would cause a substantial reduction in visual openness across the site. Irrespective of the suburban site influences, the limited number of receptors that would experience this loss and the lack of more distant public views, there would be a significant loss of visual openness to the Green Belt.
13. I agree with the Council that the appeal site's existing land use generates very few vehicle or pedestrian movements whereas the proposed scheme would generate the level of activity, including parking demand, expected to be associated with 67 houses (as quantified in some reports supporting the appeal proposals). The degree of activity change would be clearly perceived from the surrounding land and would contribute to the loss of openness.
14. Overall, I conclude that in spatial and visual terms the appeal scheme would permanently and harmfully erode the openness of the Green Belt contrary to the Framework which sets out that the essential characteristics of Green Belts are their openness and their permanence. The proposed development would conflict with Policy GB1 of the LP where it seeks to maintain openness.

The effect of the development on Green Belt purposes

15. The Spelthorne Local Plan Green Belt Assessment (GB Assessment) is an independent and objective appraisal of all existing Green Belt land in Spelthorne. The purpose of the GB Assessment is to provide evidence of how different areas perform against Green Belt purposes set out in national policy. The evidence in the GB Assessment has then been taken into account with other evidence in preparing Spelthorne's emerging local plan.
16. Within stage 1 of the GB Assessment the appeal site is part of strategic area B 'a band of Green Belt maintaining separation between a number of settlements including Ashford/ Sunbury-on-Thames/Stanwell, Staines-upon-Thames /

Shepperton / Walton-on-Thames, and Chertsey, Addlestone, and Egham'. The strategic area is divided into local areas and the appeal site is part of local area 32. Local Area 32 is seen as strongly performing against GB purposes a, b, and c but with no discernible impact on purposes d and e.

17. Stage 2 of the GB Assessment splits local area 32 into sub areas with the appeal site identified as sub area 32f. The sub area is assessed as weakly performing/ less important in relation to purposes a, b, and c. Similarly, the stage 3 GB Assessment concludes that the appeal site is weakly performing/ strategically less important and that removal from the Green Belt is unlikely to impact on the Green Belt's wider performance.

Purpose a) to check the unrestricted sprawl of large built up areas

18. The GB assessment defines 'sprawl' as the outward spread of a large built-up area at its periphery in a sporadic, dispersed, and irregular way. The stage 1 assessment acknowledges that local area 32 provides an important barrier to sprawl in the absence of another durable boundary. Individually, sub area 32f is said to perform weakly against purpose a) because the existing outer boundaries of the sub area limit physical and visual links to the wider Green Belt. Visual and functional connections to the wider Green Belt are further diminished by the presence of built development within the Green Belt immediately to the west and the appeal site's enclosed nature.
19. However, I accept that Sunbury-on-Thames is acknowledged in the GB assessment as part of a large built-up area and the appeal scheme would result in the outward spread of development into the Green Belt at its periphery. Even so, there would be little increased sense of sprawl at the edge of the settlement because the appeal site is contained by the public footpath, Hazelwood Drive, Lyndhurst Avenue and the rugby training ground car park and club house to the west. The containment of the site would restrict further sprawl of the large built-up area and the development would not appear dispersed or sporadic being enclosed by recognisable and well-defined boundaries. Consequently, the appeal site only contributes in a limited way to the purpose of checking unrestricted sprawl and the harm of the proposed development in terms of purpose a) would be small.

Purpose b) to prevent neighbouring towns merging into one another

20. I can accept that the development of the appeal site would lead to the erosion of space in local area 32. However, the GB assessment takes the view that due to the appeal site's small scale and enclosed nature the appeal site (sub area 32f) performs weakly against purpose b) making no discernible contribution to separation in physical and visual terms.
21. From the viewpoints in the appellants' Landscape and Visual Assessment the appeal scheme would have limited visibility, with the rugby club house building creating a barrier that visually separates the appeal site from the rest of the local area. Therefore, I see no reason to disagree with the GB Assessment's conclusion in respect of purpose b). The effect of the development on purpose b) would be negligible.

Purpose c) to safeguard the countryside from encroachment

22. The GB assessment concludes that while the appeal site comprises little built form there are a number of urbanising influences including strong visual links

to the surrounding built form to the north, east and west. Dense vegetation and dispersed trees contribute to a strong sense of enclosure with limited links to the wider countryside to the south.

23. The appeal site is beyond the settlement boundary in the Core Strategy and in policy terms would be defined as countryside. However, while the appeal site is undeveloped, its connection to the wider countryside is limited for the reasons the GB Assessment explains. Consequently, although one may conclude that the proposed development itself would encroach into countryside, the appeal site contributes in a very limited way to safeguarding the countryside from encroachment because it is enclosed and separated from countryside by its immediate surroundings.

Conclusion on Green Belt purposes

24. The nature of the land uses surrounding the appeal site are such that the site performs weakly against Green Belt purposes and there would be minimal harm to the purposes of Green Belt as a result of the proposed development. Nevertheless, I conclude that there would be a small conflict with Policy GB1 where it states that development will not be permitted which would conflict with the purposes of the Green Belt.
25. I have had regard to the case law brought to my attention as relevant to the assessment of development within the Green Belt. I am satisfied that the approach I have taken in this decision is consistent with that case law.

Other Considerations

Housing land supply

26. For the purposes of this appeal, it is agreed that the Council can demonstrate a 2.35 to 2.4 years supply of deliverable housing. The difference between the two parties regarding the precise figure is agreed to be immaterial to the weight given to the provision of housing as a benefit. In the Bugle Nurseries appeal¹ it was suggested that the housing land supply position in the Borough was between 2.79 years and 3.52 years, and it was acknowledged that the short-term picture was worsening with the Inspector dealing with an earlier appeal on that site finding a 4.79-year supply. Based on these figures the supply position is continuing to deteriorate.
27. There is also an acknowledged under-delivery of housing in the most recent housing delivery test (HDT) which confirmed that only 68% of housing need was delivered in the preceding three years meaning that a 20% buffer is applied to the housing requirement. In addition, the Council does not dispute that under the HDT scoring regime it has been a 'presumption authority' since 2018. Furthermore, the appellants provide some evidence that the next HDT is likely to confirm housing delivery far below the 68%. While the Council does not consider it to be helpful to speculate on future housing delivery test results, little is provided to counter concerns of declining housing delivery.
28. The planning system should be genuinely plan-led. The Core Strategy provides a framework for meeting housing needs. In this case the Council is failing to provide for the housing needs of the area based on the plan-led approach. However, the Council is working on a new local plan. That plan has been

¹ APP/Z3635/W/23/3325635

submitted for examination since November 2022 and held in abeyance for a considerable period since that time for various reasons. I return to consider the emerging plan below, but recent events indicate that the Council is seeking to progress the adoption of the local plan that could provide for its housing requirements. It is however pertinent that the appeal site is a housing allocation within the emerging plan and part of the Council's strategy for delivery of housing in the first 1 to 5 years in that plan.

29. The appellants' delivery plan sets out the approach for delivery of the detailed housing scheme including timescales for its implementation. It indicates that, were a favourable decision to be forthcoming, purchase by Bellway Homes and discharge of planning conditions would take place in three to six months from the decision date and the scheme would be implemented in the next 7 to 24 months. The Council does not contest the details of the delivery plan and it appears that there are few barriers to the housing scheme being implemented. The rapid delivery of housing weighs in favour of the scheme in the context of the current level of supply.
30. Bringing these matters together, overall, there is a significant housing land supply shortfall in the Borough that has resulted in an under delivery of housing. The evidence points to the supply and delivery of housing worsening at least until the adoption of the emerging Local Plan, wherein the appeal site is proposed to be allocated as part of the housing land supply. Against this backdrop the evidence is that the appeal scheme can be delivered in a relatively short timeframe and provide a notable boost to the supply of housing. I attach substantial weight to the delivery of housing.

Affordable housing

31. The evidence presented in the appellants' Affordable Housing Statement sets out that the Council has serious and persistent shortfalls in the provision of affordable housing across the entire Core Strategy period from 2006 to date and that the future deliverable supply of affordable housing will fall considerably short of the need. This is in the context of serious affordability problems, a growing housing register and high house prices in the locality.
32. The appeal scheme would provide 50% affordable housing (34 dwellings) on site. This level of provision is in accordance with Policy HO3 of the Core Strategy. The proposed tenure split between affordable rent and first homes is in accordance with the emerging plan Policy H2 and would be secured through a s106 obligation. The Council accepts that the provision of affordable housing on the appeal site would be policy compliant and a substantial benefit of the scheme.
33. The appellants set out that over the first four years of the 2019 Strategic Housing Market Assessment Update period from 2019/20 to date, net affordable housing completions have averaged 43 affordable dwellings per annum² against an identified need for 459 affordable dwellings per annum. The proposed number of affordable houses in the appeal scheme may appear modest but in the context of 43 dwellings being delivered per annum on average across the Borough the provision of 34 affordable units is an important benefit which attracts very substantial weight in favour of the scheme.

² Paragraph 5.14 appellants' affordable housing hearing statement June 2024

Economic benefits

34. In general terms I accept that the downturn in housing delivery and uncertainties in the local plan process can create a challenging environment for developers. I also agree that during the construction phase of the development there would be some indirect and direct economic gains to the area through spend and potential employment for local residents. However, as identified by some of those objecting to the proposals, the economic gains are not quantified and there is no mechanism to ensure jobs and new skills for local people would be secured.
35. Furthermore, while additional residents at the appeal site would probably result in an increase in local spending and support for nearby services, there is no quantifiable evidence of the likely spend uplift to the local area. Moreover, restrictions on the allocation of affordable housing would likely mean that some future residents are already spending and using services within the Borough.
36. Even so, on a general level the development phase of the proposed scheme would create construction jobs that would benefit the wider economy. The construction of 67 dwellings would also generate additional local spend. Nevertheless, given the lack of detail provided I cannot agree with the appellants that the economic benefits should be given substantial weight. Therefore, in accordance with the approach in the Bugle Nurseries appeal I give moderate weight to the economic benefits of the scheme.

Public right of way and public access to the recreation space

37. As explained at the Hearing there are certain rights of way through the appeal site, but these do not extend to the appeal site having a public right of way through it. Therefore, there is no formal right of way between School Walk and Hazelwood Drive even if informally the current track through the site is used. The scheme proposes a route through the site, albeit largely on the estate road, which would secure a route for the public to access Hazelwood Drive from School Walk and vice versa. The scheme would increase the permeability of the area, and this is a small benefit of the scheme to which I attribute limited weight.
38. Furthermore, the footpaths within the site have been designed to pass the recreation open space. The Council confirms that quantitatively the amount of open space is policy compliant and seeks conditions related to the detailed layout of the space which would allow them to secure high-quality design. I agree that the open space is not sufficient in size to be a destination for existing residents but as it is on a walking route between Hazelwood Drive and School Walk, I accept that it would be available to the public and therefore its provision is a small benefit in terms of the availability of recreation facilities for local community use.

Emerging Local Plan

39. As noted elsewhere in this decision, the appeal site is allocated for residential development in the emerging local plan. The emerging local plan was submitted for examination in November 2022. The examination hearings were subsequently paused. In July 2024, the Council sought a resumption of the examination of the Local Plan proposing main modifications including the removal of the Green Belt housing allocations from the submitted plan. At the

hearing, the parties brought to my attention a further Council meeting to discuss the emerging local plan. The agreed outcome of that meeting, among other things, was that the Council resolved to keep the Green Belt allocations in the Local Plan as submitted to the Planning Inspectorate on 25 November 2022. Therefore, the removal of the allocation of the appeal site for residential development as a modification to the submitted plan is no longer sought.

40. Green Belt release can be acceptable through the development plan if there are exceptional circumstances. Therefore, the principle of allocating the site for development would be consistent with the Framework. Although I am advised that there is limited objection to the allocation, I acknowledge that there are outstanding issues related to the allocation that would be discussed through the examination process. I am also mindful that the exceptional circumstances test is a lower threshold than the very special circumstances test required to grant planning permission.
41. However, the Council has reviewed its Green Belt land through the GB Assessment and, because of that assessment, has allocated the site for development. I heard that the parties agree that the scheme would comply with the site-specific requirements and opportunities in the allocation, and that the proposed scheme is entirely compliant with the emerging local plan. Therefore, I give moderate positive weight to the compliance of the scheme with the emerging local plan.
42. I acknowledge that in the appeal at the former Debenhams site³ limited weight was given to the emerging local plan. However, the Council has now sought a resumption in the local plan examination and have clarified their position with regard to the emerging Green Belt allocations since that appeal decision was made. Regarding the Bugle Nurseries appeal the weight given to the emerging plan is similar to that in my conclusions.

Draft National Planning Policy Framework (draft NPPF) and the Written Ministerial Statement (WMS)

43. The WMS 'building the homes we need' and the draft NPPF set out Government's ambitions for growth, building homes and improving affordability. However, to have regard to the detailed changes set out in the draft NPPF at this stage would be to negate the consultation process. The proposals are subject to consultation and therefore also subject to change or modification.
44. Nevertheless, I agree with the appellants that the 'direction of travel' as set out in the WMS is unlikely to alter and given the importance placed on building new homes and affordability, I attach limited positive weight to the contribution of the appeal scheme to the WMS's ambitions.

Accessibility to services and facilities

45. The Council concludes that the appeal site is sufficiently accessible to public transport including Sunbury railway station and various bus stops. The Council also concludes that the appeal site's location is such that future occupiers would not need to own a car. A condition is proposed to secure upgrades to southbound and northbound Croysdale Avenue bus stops on Green Street. Consequently, there would be moderate benefits associated with the

³ Appeal Ref: APP/Z3635/W/22/3312440

accessibility of the appeal site to services and facilities and the provision of upgrades to the bus stop which would be available for wider public use.

Other matters/objections

46. There are a number of objections to the loss of the ecological value of the appeal site. While I understand objector's concerns, the Council has withdrawn its reason for refusal related to ecology and is satisfied, based on advice from Surrey Wildlife Trust, that appropriate mitigation for any loss of biodiversity can be secured by condition. As such the proposal would comply with Policy EN8 of the Core Strategy. I see no reason to disagree with the Council's conclusion on this matter.
47. Objectors raise concerns about the lack of health care facilities. The Council's draft Infrastructure Delivery Plan (IDP) identifies the costs of additional health care needs predicted to arise because of new housing development. The IDP sets out the level of funding to be sought through developer contributions to support existing facilities with the cost of additional health care provision. I acknowledge elsewhere in this decision a contribution towards healthcare facilities is to be secured through a s106 agreement. The need and amount of the contribution for the appeal scheme is well documented in the IDP and would support the improvements to healthcare facilities necessary to accommodate housing development at the appeal site.
48. In addition to misgivings raised in respect of the main issues, biodiversity and healthcare, local residents have expressed concerns about several issues including the development density, pollution, effect on the character and appearance of the area, disturbance during the development construction phase, protection of oak trees on the site, demand placed on utilities, inadequate parking and gardens, shortfall of dwellings for disabled people, living conditions of existing residents and privacy for the adjacent girl guide facility. However, these matters were considered by the Council, where relevant, at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. As discussed below, some of these matters can be addressed by appropriate conditions. In respect of others, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council.

S106 agreement

49. A signed and dated agreement under section 106 of the Town and Country Planning Act 1990 has been submitted which provides for various obligations. In line with the Community Infrastructure Levy (CIL) tests, the Framework explains in paragraph 57 that planning obligations must only be sought where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. It is therefore necessary for me to consider these obligations in detail and reach a finding on them having regard to the above tests.
50. Regarding affordable housing, there is no dispute that the amount of the affordable housing would comply with policy requirements and the proposed tenure split between affordable rent and first homes is appropriate and in accordance with the emerging plan Policy. The mix and tenure of the affordable

housing would be secured through the section 106 agreement which meets the relevant tests.

51. The contributions towards healthcare facilities and police needs set out in schedule 3 of the agreement are fully evidenced in the IDP and the IDP part 2. Therefore, these obligations meet the relevant tests.
52. To summarise, in respect of affordable housing and contributions towards healthcare facilities and police needs, I am satisfied that the proposals comply with the CIL tests.

Whether very special circumstances exist

53. The proposed development would be inappropriate development in the Green Belt, would result in permanent and harmful loss of openness of the Green Belt and minimal harm to Green Belt purposes. In accordance with national policy this harm carries substantial weight against the proposals. The Council does not identify any other harm resulting from the appeal scheme and for the reasons I have set out I see no reason to disagree.
54. The delivery of 67 dwellings including 34 affordable dwellings in the context of worsening housing land supply and a persistent shortage of affordable housing in the Borough are important benefits. The provision of housing attracts substantial weight, and the provision of affordable housing carries very substantial weight. There would also be some other benefits including economic benefits, compliance of the scheme with the emerging local plan, alignment with the WMS in so far as it has ambitions to secure affordability, housing, and economic growth. In addition, I attach positive weight to the accessibility of the site including upgrades to bus stops, the proposed footpath through the site and play space provision.
55. I have had regard to the case law brought to my attention⁴ by the Council, however, overall, it is my conclusion that the substantial weight to be given to the Green Belt harm, would be clearly outweighed by the other considerations in this case, so as to amount to the very special circumstances necessary to justify development in the Green Belt.

Conditions

56. A list of draft conditions was appended to the SoCG and discussed at the Hearing. The parties clarified that any dispute about conditions set out in the SoCG has been resolved.
57. I have considered the proposed conditions in line with the advice contained at paragraph 56 of the Framework i.e. that conditions are kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. After our discussions at the Hearing, I provided the parties with the opportunity to comment on the conditions and carried out minor editing and removed any duplication.
58. In addition to the standard time limit condition, I have included a plans condition for certainty. So that the site assimilates into its surroundings, that existing protected trees are retained and to ensure enhanced boundary

⁴ Paragraph 6.0 to 6.12 of the Council's statement of case

planting, conditions 4, 12 and 18 are necessary. To ensure that the development has regard to the existing ecological value of the site and opportunities are taken to achieve a net gain in biodiversity a habitat creation and enhancement plan and external lighting details are required (Condition 5 and 17). Because of the land use history of the site a contamination study is required (Conditions 6 and 15). A construction management plan is needed to protect the living conditions of neighbours during the construction phase of the development (Condition 7).

59. Conditions 3, 9, 19, 20, 21, 22, and 23 are imposed in the interests of highway safety and accessibility. Details of surface water drainage are required to ensure that surface water is controlled to mimic natural drainage and account for predicted impacts of climate change (conditions 8 and 14). Details of materials are necessary to ensure that the development has a satisfactory appearance (Condition 10) and to protect nesting birds, condition 11 is necessary. Condition 13 is imposed to mitigate the effects of, and adapt to, climate change. Condition 16 is necessary to ensure that waste and recycling is effectively collected and removed from the site.
60. Conditions 3 to 9 inclusive are pre-commencement to ensure appropriate ground conditions, to avoid adverse impacts and to ensure suitable detailed design is available before construction is commenced. The appellants have agreed to the form of these conditions.

Planning Balance and Conclusion

61. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise, in accordance with s38(6) of the Planning and Compulsory Purchase Act (2004).
62. I have concluded above that the proposal would be inappropriate development in the Green Belt but that very special circumstances necessary to justify the development exist. In taking this into account when considering the application of paragraph 11 d) of the Framework it follows that the Green Belt does not provide a clear reason for refusing the proposed development as per paragraph 11 d) i.
63. I therefore move on to consider paragraph 11 d) ii. As I have already taken all relevant considerations into account as part of the Green Belt balance and concluded that very special circumstances exist, I also find that the adverse impacts of the proposals would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Accordingly, the presumption in favour of sustainable development applies in this case.
64. Taking the above into account and considering the overall s38(6) balance I conclude that material considerations indicate that the decision should be taken otherwise than in accordance with the adopted development plan. Therefore, for the above reasons, I conclude that the appeal should be allowed.

Diane Cragg

INSPECTOR

Appearances

For the appellants:

Mr Guy Williams KC	Counsel for the appellants
Edward Ledwidge	Partner, Montagu Evans
James Morton	Associate Director, Aspect Landscape Planning

For the Council:

Mr Edward Grant	Counsel for the Council
Phillip Hughes	PHD Chartered Town Planners
Russ Mounty	Principal Planning Officer Spelthorne BC

Third Parties:

Peter Swettenham	Local Resident
Kath Sanders	Local Resident

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Plans

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 072106-BEL-SL-01 Rev A – Presentation Planning Layout, 072106-BEL-SL-02 Rev A – Supporting Planning Layout, 072106-BEL-SL-03 Rev A – Storey Heights Layout, 072106-BEL-SL-04 – Tenure Layout, 072106-BEL-SL-05 Rev A – Unit Type Layout, 072106-BEL-SL-06 – Location Plan, CN-2B-2S-P1 Rev A – The Coiner – Floor Plans, BM-3B-2S-CT-E Rev C – The Blemmere – Country Tile Elevations, BM-3B-2S-P1 Rev C – The Blemmere – Floor Plans, HA-3B-2S-CB-E – The Harper – Country Brick Elevations, HA-3B-2S-P1 Rev A – The Harper – Floor Plans, CR-3B-3S-CB-E1 – The Cobbler – Country Brick Elevations, CR-3B-3S-CT-E1 – The Cobbler – Country Tile Elevations, CR-3B-3S-CT-E2 – The Cobbler – Country Tile Elevations, CR-3B-3S-P1 – The Cobbler – Floor Plans, CR-3B-3S-CT-E3 – The Cobbler – Country Tile Elevations, CR-3B-3S-P2 – The Cobbler – Floor Plans, CR-3B-3S-CB-E2 – The Cobbler – Country Brick Elevations, CR-3B-3S-P3 – The Cobbler – Floor Plans, RE-4B-2S-CB-E – The Reedmaker – Country Brick Elevations, RE-4B-2S-P1 Rev A – The Reedmaker – Floor Plans, PG-4B-2S-CT-E – The Pargeter – Country Tile Elevations, PG-4B-2S-P1 – The Pargeter – Floor Plans, LU-4B-2S-CB-E – The Luthier – Country Brick Elevations, LU-4B-

2S-P1 – The Luthier – Floor Plans, BA-2B-2S-CB-E – The Baker – Country Brick Elevations, BA-2B-2S-P1 – The Baker – Floor Plans, TI-3B-2S-CB-E – The Tillman – Country Brick Elevations, TI-3B-2S-P1 – The Tillman – Floor Plans, PW-3B-2S-CT-E – The Ploughwright – Country Tile Elevations, PW-3B-2S-P1 – The Ploughwright – Floor Plans, CT-4B-2S-CT-E – The Cartographer – Country Tile Elevations, CT-4B-2S-P1 – The Cartographer – Floor Plans, WLA-3S-CT01-E1 – Wayland Court – Country Tile Elevations, WLA-CT01-P1 – Wayland Court – Floor Plans, WLA-CT01-P2 – Wayland Court – Floor Plans, WLA-CT01-P3 – Wayland Court – Floor Plans, HAA-3S-CT01-E1 – Harwood Court – Country Tile Elevations, HAA-CT01-P1 – Harwood Court – Floor Plans, HAA-CT01-P2 – Harwood Court – Floor Plans, HAA-CT01-P3 – Harwood Court – Floor Plans, 072106-BEL-SL-CS01 – Cycle Shed 01 – Plan & Elevations, 072106-BEL-SL-CS02 – Cycle Shed 02 – Plan & Elevations, 072106-BEL-SL-SUB01 – Substation 01 – Plan & Elevations, 072106-BEL-SL-CP01 – Car Port 01 – Plan & Elevations, GAR01-R2-CB – Garage 01 – Plan & Elevations, GAR02-R3-CB – Grage 02 – Plan & Elevations. ITB18034-GA-003 Rev F Swept path analysis – Refuse Vehicle – Site Layout

Internal Road Layout

3. No development shall commence until the detailed design of the internal roads, footways and cycle routes has been submitted to and approved in writing by the Local Planning Authority (LPA). Details shall include the provision of visibility splays (including pedestrian inter-visibility splays) for all road users, crossing points, any required lighting, signage, and road markings. The approved details shall be implemented to the satisfaction of the LPA before any dwelling is first occupied and the approved visibility splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

Landscape

4. No development shall commence until full details, including a plan, of hard and soft landscape proposals, have been submitted to and approved in writing by the LPA. These details shall include, but shall not limited to proposed finished levels, means of enclosure, car parking areas, other vehicle and pedestrian access and circulation areas, design, and details of the Local Area for Play (LAP), and hard surfacing materials. Soft landscape details shall include a detailed planting plan, specification (including cultivation and other operations associated with plant and grass establishment), schedules of plants (noting species, planting sizes and proposed numbers/densities), and an implementation programme.

All hard and soft landscape works shall be carried out in accordance with the approved details and in accordance with an agreed implementation programme.

Any trees or plants within the approved scheme which within a period of 5 years from the completion of the development die, are removed or become damaged or diseased shall be replaced in the next planting season with others of similar size and species in accordance with the original approved details.

Habitat Creation/Enhancement

5. No development shall commence until full details of a habitat creation and enhancement scheme and plan based on the principles set out in the Ecological Enhancement Plan dated October 2024 shall have been submitted to, and approved in writing, by the LPA. The details shall include, but shall not be restricted to:
- Description of the target habitats and range of species appropriate for the site;
 - Selection of appropriate strategies for creating target habitats or introducing target species;
 - Provision and identification of a protection zone during construction;
 - Selection of specific techniques and practices for establishing vegetation;
 - Sources of habitat materials (eg planting stock);
 - Method statement for site preparation and establishment of target habitat;
 - Aftercare and long-term management (minimum period 5 years);
 - Disposal of wastes arising from the works
 - Implementation programme including supervision and monitoring details.

The approved habitat creation scheme and plan shall be carried out in accordance with the approved details in accordance with the implementation programme and thereafter maintained in perpetuity. Any elements of the habitat creation scheme that within a period of five years after planting or completion, are removed, die, or become damaged or defective, shall be replaced in the next planting season with others of species, size and number as originally approved.

Contamination

6. No development shall commence until: -
- (i) A comprehensive desk-top study carried out to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site, has been submitted to and approved in writing by the LPA.
 - (ii) Where any such potential sources and impacts have been identified, a site investigation has been carried out to fully characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not commence until the extent and methodology of the site investigation have been agreed in writing with the LPA.
 - (iii) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the LPA prior to the commencement of remediation. The method statement shall include an implementation timetable and monitoring proposals, and a remediation verification methodology.

The site shall be remediated in accordance with the approved method statement, with no deviation from the statement without the express written agreement of the LPA.

CTEMP

7. No development shall commence until a Construction Transport/Environmental Management Plan (CTEMP), has been submitted to, and approved in writing by the LPA. The Statement shall include details of:

- a. parking for vehicles of site personnel, operatives, and visitors
- b. loading and unloading of plant and materials
- c. storage of plant and materials
- d. programme of works (including measures for traffic management)
- e. provision of boundary hoarding behind any visibility zones
- f. HGV deliveries and hours of operation
- g. measures to prevent the deposit of materials on the highway
- h. before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused
- i. on-site turning for construction vehicles.
- j. dust suppression measures.
- k. a reptile precautionary method of working.
- l. protection measures for trees with bat roosting potential.

The approved CTEMP shall be adhered to throughout the construction period of the development.

Sustainable drainage system (SuDs)

8. No development shall commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the LPA. The design must satisfy the SuDs hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDs, NPPF and Ministerial Statement on SuDs. The required drainage details shall include:
- a. The results of infiltration testing completed at proposed soakaway specific locations in accordance with BRE Digest: 365 and confirmation of groundwater levels.
 - b. Evidence that the proposed final solution will effectively manage the 1 in 30 (+35% allowance for climate change) & 1 in 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. Associated storage volumes shall be provided using an infiltration bases strategy.
 - 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.). Confirmation is required of a 1m unsaturated zone from the base of any proposed soakaway to the seasonal high groundwater level and confirmation of half-drain times.
 - 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 from increased flood risk.
 - 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.

Bus Stop Improvements

9. No development shall commence until a detailed scheme for off site highway works comprising the upgrade of the southbound and north bound Croysdale Avenue Bus stops on Green Street in accordance with the scheme of works identified on Drawing No. ITB18034-GA-007 Rev C shall be submitted to and

approved in writing by the LPA; and the dwellings hereby approved shall not be occupied until those works have been constructed in accordance with the approved details to the satisfaction of the LPA.

Materials

10. No development above damp course level shall take place until details of the materials to be used for the external surfaces of the dwellings and surface material for parking areas are submitted to and approved by the LPA. The development shall then be constructed in accordance with the approved materials and detailing.

Nesting Birds

11. No vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Trees

12. The development hereby approved shall be undertaken in accordance with the details contained in the submitted Tree Impact Assessment Rev C dated January 2023 and Tree Protection Plan 1827-KC-XX-YTREE-TPPO1 Rev A.

Sustainability/Climate Change

13. The development shall be constructed in accordance with the details set out in the Energy and Sustainability Strategy (PA-ES-BWSL-HD-22-03) by Abbey Consultants dated January 2023. The approved measures in the strategy shall be maintained throughout the lifetime of the development hereby approved.

SuDs Verification Report

14. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the LPA. This must demonstrate that the surface water drainage system has been constructed as per the approved scheme, 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), and confirm any defects have been rectified. The approved scheme shall thereafter be retained and maintained.

Contamination Remediation

15. Prior to the occupation of the development, and on completion of the agreed contamination remediation works, a validation report that demonstrates the effectiveness of the remediation carried out, including the 'installation and verification' report of the gas protection measures, shall be submitted to, and agreed in writing by the LPA.

Waste and Recycling

16. Prior to the occupation of the development hereby permitted details of the facilities for the storage of refuse and recycling materials and a refuse strategy plan shall be submitted to and approved in writing by the LPA. The development shall be implemented in accordance with the agreed strategy

plan and no dwelling hereby approved shall be first occupied unless and until the approved waste and recycling storage facilities have been provided for that unit in accordance with the approved plans. Thereafter the refuse and recycling storage facilities shall be retained and maintained.

External Lighting

17. Prior to the occupation of the development hereby permitted details including a technical specification of all proposed external lighting, having regard to nature sensitive considerations, shall be submitted to, and approved in writing by the LPA. The agreed external lighting shall be implemented in accordance with a timetable to be agreed as part of the approved technical specification and thereafter shall at all times accord with the approved details.

Landscape Management Plan

18. Prior to the occupation of the development hereby permitted a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the LPA. The landscape management plan shall be carried out as approved.

New Junction

19. No part of the development shall be first occupied unless and until the proposed priority junction onto Hazelwood Drive has been constructed and provided with visibility zones in accordance with the approved plans (Drawing no. ITB8034-GA-001 Rev. D) and thereafter the visibility zones shall be kept permanently clear of any obstruction over 600mm high.

Parking Layout

20. No dwelling shall be occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. The car parking spaces and turning areas shall thereafter be retained and maintained for their designated purposes.

Cycle Parking

21. No dwelling shall be first occupied unless and until facilities for the secure, covered parking of bicycles has been provided for that unit in accordance with the approved plans. Thereafter the bicycle parking facilities shall be retained and maintained for their designated purpose.

Travel Plan

22. No dwelling shall be first occupied unless and until a site-specific Travel Plan has been submitted to and approved in writing by the LPA. The approved Travel Plan shall be implemented upon first occupation of the development and subject to review as per details to be set out within the approved Travel Plan.

Footpath access to School Walk

23. No more than 50% of the dwellings hereby approved shall be first occupied unless and until the proposed pedestrian access (that is all footpaths within the redline site boundary) between Hazelwood Drive and School Walk (Footpath number 21) have been constructed in accordance with the

approved plans. Thereafter the pedestrian access shall be retained and maintained for its designated purpose.

Richborough