

LAND AT CHICHELE ROAD, OXTED**APPEAL BY CALA HOMES (SOUTH HOME COUNTIES) LTD****PINS REF. APP/M3645/W/24/3345915**

**LIST OF APPEARANCES AND OPENING STATEMENT
ON BEHALF OF THE RULE 6 PARTIES**

List of Appearances

Isabella Buono, of Counsel, instructed by Sayer Moore & Co Solicitors, will call:

- Peter Giles (on Highways);
- Michael Hurman (on Flood Risk and Drainage); and
- Jackie Wren (on Ancient Woodland, Ecology, Landscape and Green Belt).

Opening Statement

1. This inquiry concerns proposals for the residential development (116 dwellings) on an open field of rural character which lies in the foothills of the North Downs. There is no dispute that:
 - a. The appeal site is not allocated for development in the adopted local plan.
 - b. Nor was it proposed to be allocated through the emerging plan which was withdrawn earlier this year.
 - c. The appeal site lies entirely outside the built-up area boundary and entirely within the Green Belt.

- d. All of the site also falls within the setting of the Surrey Hills Area of Outstanding Natural Beauty (“AONB”), now National Landscape.
- e. The northern part of the site includes Ancient Woodland and lies within the AONB / National Landscape and an Area of Great Landscape Value.
- f. Natural England’s view is that it would be desirable for the purpose of conserving and enhancing the natural beauty of the area to vary the AONB boundary so as to include the entire site.



View of the appeal site from the Oxted Downs (CD13.9)

2. In that context, this inquiry will consider the acceptability of this scheme on this site. This inquiry is, of course, not a review of the district’s Green Belt boundaries, or otherwise a forum for making new policy to address the national housing crisis to which Mr Taylor’s evidence refers. Statute limits its scope to the determination of (a) whether the appeal proposals accord with the statutory development plan and (b) whether there any material considerations

which would justify determining the appeal otherwise than in accordance with that plan.¹ No more, or less, than that.

3. In answer to those statutory questions, the clear evidence of Mr Thurlow is that
 - (a) the appeal scheme does not accord with the statutory development plan and
 - (b) there are no material considerations which would nonetheless justify allowing the appeal.

4. The Oxted & Limpsfield Residents Group and Oxted Parish Council (together, "the Rule 6 Parties") rely on the evidence given by Mr Thurlow and Ms Hooper for the Council (so far as it is consistent with their case) and supplement that evidence with:
 - a. The evidence of Ms Wren that, on account of the impacts on Ancient Woodland and the small heath butterfly, paragraphs 186(a) and (c) of the NPPF require that planning permission be refused.

 - b. The evidence of Cllr Giles that, on account of the impacts on road safety and/or the local road network, paragraph 115 of the NPPF requires that planning permission be refused. He considers that, if the impacts on the road network are found not to provide a freestanding reason for refusing permission under paragraph 115, they should still be weighed in the balance as "*other harms*" (and that there would still be conflict with paragraphs 108, 114, 116 and 191 of the NPPF and with Local Plan policies CSP11, CSP12, DP5 and DP7).

 - c. The evidence of Mr Hurman that, on account of the inadequacies in the proposed sustainable drainage systems, the scheme conflicts with paragraph 173 of the NPPF and that permission should therefore be refused. He also identifies a clear risk of the development overloading

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004.

the sewerage system and asks that a Grampian condition be imposed on that basis. He considers that, even if the surface water and foul drainage issues do not provide a freestanding reason for refusing planning permission, they should be weighed in the overall balance as “*other harms*”.

5. Even if you were to find against the Rule 6 Parties on each of those matters, planning permission should still be refused in accordance with paragraph 152 of the NPPF. That paragraph imposes a demanding test for appellants to overcome in a case like this one – more demanding than that set for removing sites from the Green Belt through the plan-making process.² It takes as its starting point that permission should be refused for inappropriate development in the Green Belt – unless the appellant can show that “*very special circumstances*” exist.

6. Paragraph 153 of the NPPF provides that “*very special circumstances*” will only exist if all the scheme’s harms are “*clearly outweighed*” by other considerations. Harm to Green Belt openness and purposes, landscape and visual impacts, and harm to the AONB and its setting all need to be weighed in that balance. Ms Wren gives evidence on those matters on behalf of the Rule 6 Parties, drawing on her experience of walking across the appeal site and the surrounding landscape over many years. She describes its “*rural and very peaceful character*” and its connection to the wider landscape (including in views to and from the AONB). Like Ms Hooper, she considers this to be a “*valued landscape*” within the meaning of paragraph 180 of the NPPF. She explains that it also “*strongly fulfil[s] the Green Belt purposes*”. She concludes that the impacts that this scheme would have on the open countryside, on the AONB, and on the Green Belt each amount to “*substantial harm*”.

² See *Compton Parish Council v Guildford BC* [2019] EWHC 3242 (Admin) at [70].

7. Even without the drainage and highways harms being weighed in the balance, and even with substantial positive weight afforded to the scheme's delivery of market and affordable homes, Mr Thurlow explains that the scheme's harms are not "*clearly outweighed*" by other considerations (within the meaning of paragraph 153 of the NPPF) and that "*very special circumstances*" do not therefore exist (within the meaning of paragraph 152 of the NPPF).
8. National policy may of course change in the future. We don't yet know what the outcome of the consultation on the draft changes to the NPPF will be. The draft text referred to in Mr Taylor and Mr Slatford's evidence might be adopted. It might not. If the draft were to become policy, the test applicable to this appeal would in any event remain the same. As Ms Wren will explain, the Rule 6 Parties do not accept that this is a "*Grey Belt*" site – and, even if it were, the appeal proposals would still constitute inappropriate development in the Green Belt (for which permission should be refused, absent "*very special circumstances*") because the contributions listed in draft new paragraph 155 have not been secured.
9. Whilst the Government is considering Green Belt policy in general, Natural England ("NE") has been considering this site in particular. Having "*undertaken an assessment of the natural beauty of the site*", NE has concluded that it "*retains a strongly rural character*" and "*relates strongly to the wider AONB*": CD9.10, pp. 9-10. NE has accordingly concluded that the AONB boundary should be altered so that *all* of the appeal site will be designated as part of the AONB / National Landscape.
10. In other words, for this Green Belt site, the direction of travel is towards more protection not less.
11. For those reasons, which we will develop through our evidence and in closing, we will ask you to dismiss this appeal.

Isabella Buono
Landmark Chambers

24 September 2024