



Appeal Decision

Hearing held on 21 and 22 June 2023

Site visits made on 21 and 22 June 2023

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2023

Appeal Ref: APP/C3620/W/22/3309960

The Bungalow, Kiln Lane, Brockham, Surrey RH3 7LZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Oakford Homes against the decision of Mole Valley District Council.
 - The application Ref MO/2022/1009/OUT, dated 7 June 2022, was refused by notice dated 7 October 2022.
 - The development proposed is described as "Development comprising 33 dwellings along with associated public open space and highways improvements with all matters reserved other than access".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an outline proposal with only its access arrangements put forward for detailed approval at this stage. Whilst material¹ has been submitted which includes indications of potential layout and landscaping arrangements, it is clear that these items are to be treated as illustrative rather than definitive and I will consider them on this basis. A parameter plan is submitted for determination at this stage which sets out proposed storey heights pertaining to different elements of the appeal site, and the location of open space.
3. In the run up to the hearing, the Council contacted the Planning Inspectorate with concerns relating to the validity of the planning application, which had arisen following work on planning obligations relating to the proposed development. Section 79(1) of the Town and Country Planning Act 1990 (the 1990 Act) sets out that if an appeal is made the Secretary of State (and by corollary an appointed Inspector) "may deal with the application as if it had been made to him in the first instance", which could include an assessment of the validity of the application. Consequently, I held a pre-hearing meeting with representatives of the Council and the appellant using the Inspectorate's video-conferencing platform on 1 June 2023 to discuss this matter further.
4. In brief, the background to the dispute as to the planning application's validity is as follows. The appellant signed Certificate B on the application form, certifying that they had given the requisite notice to owners and/or agricultural

¹ Including the "Illustrative Concept Masterplan" Drawing No. SCM-01

tenants of any part of the land to which the application related. At that stage, the appellant had served a notice on the trust, which owns much of the land within the application site boundary, but failed to notify the County Council, which owns the highway frontage of the appeal site adjacent to Kiln Lane. However, notice was served on the County Council on 9 May 2023, during the course of the appeal and in response to the concerns raised by the Council.

5. Whilst the County Council was not consulted in its capacity as landowner at the application stage it was nevertheless fully aware of the proposal in its role as local highway authority and had made comments on the proposal in that capacity, as well as in respect of its archaeological and drainage responsibilities. Moreover, the County Council has been involved in ongoing activity in respect of planning obligations relating to the proposal. Furthermore, once the procedural error had been drawn to the appellant's attention, they moved to rectify this through issuing a notification, allowing any further comments from the County Council to be made in good time ahead of the opening of the hearing. The County Council made further representations as a result of this, and I am satisfied that there was sufficient time in the run up to the hearing for their implications to be taken into account by the Council and interested parties, and that the hearing offered an appropriate opportunity to discuss any related matters. I am therefore of the view that no prejudice has arisen to the interests of any parties as a result of the appellant's failure to notify the County Council at the application stage.
6. In arriving at this view, I note that a very small sliver of the appeal site at its south-eastern corner appears to be outside of the ownerships identified in the original planning application. The appellant asserts that this land is also owned by the County Council, although the County Council has not directly confirmed this. Nevertheless, I have been supplied with no evidence which contradicts the appellant's position on the ownership of this sliver of land. In any event, the element of the appeal site is peripheral and submitted material, whilst illustrative, does not depict any changes to the overall character of that area, which currently includes boundary treatments and landscaping. Moreover, were I to consider it necessary, it would be open to the appellant to complete Certificate C of the application and conduct related advertising at the appeal stage in relation to this sliver of land for the avoidance of doubt in relation to this matter. However, given the outcome of the appeal, it is neither reasonable nor necessary to conduct such exercises at this stage.
7. Consequently, taking the above matters together with the relevant Court judgements, including *Maximus Networks Ltd v Secretary of State for Communities and Local Government & Others* [2018] EWHC 1933 (Admin), and the extent of consultation that has taken place on the application and the appeal, I consider that no prejudice would occur to the interests of any party as a result of me exercising the discretion provided by s79 of the 1990 Act and proceeding to determine the appeal.
8. I produced a pre-hearing note in the interests of the efficiency and the effectiveness of the appeal process in the run up to opening. The pre-hearing note, as well as other material produced by me in advance of the hearing were made publicly available on the Council's website alongside the documents submitted by the parties. I also made paper copies of these documents available at the hearing and invited contributions from interested parties on

their content, including in terms of the validity matters outlined above, although none were forthcoming.

9. The Council and appellant submitted a Statement of Common Ground, which indicates that the Council no longer seeks to defend its reasons for refusal relating to affordable housing, public transport, protected species and ancient woodland subject to finalised planning obligations and appropriately worded conditions. Whilst these matters do not therefore constitute main issues in this case, I will nevertheless consider them, if and where appropriate elsewhere in the decision letter.
10. During and after the hearing, I was supplied with several documents (listed in the annex to this decision), all of which are in the public domain, and copies were made available to interested parties, where relevant, to facilitate discussion. I consider that no prejudice would occur to the interests of any parties as a result of me taking these documents into account in my assessment of the planning merits of the case.
11. The emerging local plan for the area is currently undergoing examination, and the Council and appellant referred to the progress of this in their representations. Following the closure of the hearing an update note² on the examination produced by the Examining Inspector was published on the Council's website. Consequently, I sought the written comments of the appellant and Council on the contents of this note.
12. Two previous appeal decisions relating to the appeal site as a whole or in part have been referred to by the parties and have been supplied as appendices to statements. I will refer to these below as 'the 2013 Decision' (APP/C3620/A/12/2188330) and 'the 2014 Decision' (APP/C3620/A/13/2209912).

Background and Main Issues

13. The appeal site is in the Green Belt and it is common ground that the proposal would constitute inappropriate development for the purposes of the National Planning Policy Framework (the Framework). Consequently, the main issues in this case are firstly, the effect of the proposed development on the openness and purposes of the Green Belt; secondly, the effects of the proposal on the character and appearance of the area; thirdly, whether the proposed development would secure adequate living conditions for its future occupants, with particular reference to privacy and outlook; and finally, whether the harm by reason of inappropriateness and any other harm resulting from the proposal is clearly outweighed by other considerations.

² ED62: Inspector Note 25

Reasons

Site, surroundings and proposed development

14. Situated between detached dwellings in generous plots on one side, and the predominantly semi-detached houses of Nutwood Avenue with its related closes/lanes, situated in a dip in the land to the other, the appeal site is a largely open one, with a rising landform which the Inspector in the 2013 Decision accurately describes as “domed”, making parts of it prominent from Kiln Lane and portions of the Big Field across from it. A bungalow is situated on one of the highest parts of the appeal site, which has an associated access drive from Kiln Lane. Otherwise, the appeal site comprises an overgrown grassed field. A commercial unit and bungalow are adjacent to the north-eastern corners of the site. A tall non-native hedge, noted as recently planted in the 2014 Decision, now largely screens views into the site from Mill Hill Lane and the footpath through Poland Woods to the west of the site. The appeal site is outside of the settlement boundary for the purposes of Policy CS1 of the Mole Valley Core Strategy (adopted October 2009) (the Core Strategy).
15. The appeal proposal, as described above would see residential development of the site with access from Kiln Lane adjacent to the boundary with the commercial building at its north-eastern corner. According to the parameter plan, a wide strip of open space could be provided on the western side of the appeal site, including its highest points, with residential development clustered to the east of that.

Openness and Purposes

16. The Framework indicates that the essential characteristics of Green Belts are their openness and permanence, and that they serve five purposes one of which is their assistance in safeguarding the countryside from encroachment. Furthermore, Planning Practice Guidance³ (PPG) advises that a number of matters may be taken into account in making an assessment of a proposal’s effect on openness, including and amongst other things, any spatial and visual impacts; the duration of the development and its remediability; and the degree of activity likely to be generated.
17. The appellant points to the fundamental aim of Green Belts as expressed in the Framework (at paragraph 137) of preventing urban sprawl, which has been a longstanding principle of the designation⁴ and they also draw attention to the appeal site’s rural, as opposed to urban fringe, location. Be that as it may, the site is within the Green Belt, and the Framework is clear as to the factors to be taken into account in an assessment of proposals in such areas.
18. The appellant and Council have referred me to various pieces of evidence that have been produced in support of the emerging local plan which is currently under examination. During the preparation of the emerging plan, options for Green Belt boundary alteration had been explored. At the Regulation 18 stage, the appeal site was identified as a potential housing allocation, but this was not carried through to the submission version of the plan, due to further consideration of the exceptional circumstances that are necessary to justify Green Belt alterations in the plan-making process.

³ ‘Green Belt’ Paragraph: 001 Reference ID: 64-001-20190722 Revision date: 22 07 2019

⁴ As attested to by Ministry of Housing and Local Government Circular 42/55 dated 3 August 1955, a copy of which is included as an appendix to the appellant’s statement

19. The appellant considers the Council's Green Belt Exceptional Circumstances Topic Paper 2 (the Topic Paper) to constitute a 'false flag' in terms of an assessment of the current appeal given the distinction between the 'exceptional circumstances' and 'very special circumstances' tests that are relevant at plan-making and decision-taking stages respectively. I concur with this point to some degree as the Topic Paper, the Council's Green Belt Review (the Review), and its Strategic Housing and Economic Land Availability Assessment are all directed to a comparative analysis of Green Belt parcels and individual sites, with a view to informing any necessary site selection in a local plan. Consequently, their applicability to an assessment of the individual merits of the appeal is limited. Moreover, taking into account the Framework (at paragraph 48) only the most minimal weight is attached to the Regulation 18 site allocation policy, due to the early stage of plan preparation, and its being superseded by a Regulation 19 version, which is currently undergoing examination.
20. Whilst the proposed development would see the demolition of the existing bungalow, and the inclusion of public open space, it would introduce 33 dwellings across a substantial proportion of the site, which whilst layout and scale are reserved matters, the appellant says would account for some 76% of the overall available area. In spatial terms, these aspects of the proposed development would constitute a permanent and substantial change to the site, to the detriment of its openness. Whilst the parameter plan indicates provision for visual mitigation, in terms of restriction of overall ridge heights and the introduction of landscape elements, the appeal scheme could nevertheless be visible from Kiln Lane, from glimpsed views through the hedges at the site, and in gaps between the commercial building and the adjacent bungalow at its north-eastern edge. Moreover, the proposed development would increase residential population on the site, intensifying related activity in terms of vehicular movement, and in relation to the use of the proposed dwellings and their gardens, including the siting of any ancillary paraphernalia that may be located there. These considerations, taken together with the proposed development's spatial implications lead me to the view that it would materially diminish the openness of the appeal site.
21. The largely open and overgrown nature of the site, taken together with its topography and location in what the Inspector in the 2013 Decision describes as an important linkage between two areas of open land, imparts a field-like rural character. The appeal site's topography and consequently limited inter-visibility with the Nutwood houses, serve to underscore the rural character of the appeal site. For these reasons, I do not share the view of the appellant's submitted Landscape and Visual Impact Assessment (the LVIA) that the site has a settlement edge character. Neither for these reasons does the site read as an outsized garden for the bungalow as the appellant asserts.
22. Nevertheless, the presence of the bungalow on the site, taken together with the largely sporadic development pattern in its surroundings, are examples of what the Review describes as 'urbanising' features. I would therefore concur with the findings of the Review that whilst the wider parcel within which the appeal site sits makes a significant contribution to the purpose of safeguarding the countryside from encroachment, the contribution of the site itself is "more moderate". Be that as it may, the proposed residential development scheme of 33 dwellings across a significant part of the appeal site would intensify and extend urbanising features and influence within the area, and this would

significantly diminish the site's contribution to the Green Belt purpose of assisting in safeguarding the countryside from encroachment.

23. Accordingly, the above considerations, taken together, lead me to the conclusion on this main issue that the proposed development would cause material harm to openness, and would have a moderate adverse effect on the Green Belt purpose of assisting in safeguarding the countryside from encroachment.

Character and Appearance

24. The appeal site, due to its rising topography and largely undeveloped nature acts as a visual break between the relatively consolidated suburban style residential plotting of Nutwood Avenue, on one side, and the more loosely knit and spacious nature of the dwellings on the other. In its current form the appeal site adds to the spaciousness of the area, and contributes in this way to its overall character, which is broadly defined in the Landscape Supplementary Planning Document (SPD) as a gently undulating landscape, with a small to medium scale field pattern.
25. The appeal scheme would introduce buildings across a wider part of the site than is currently the case. Whilst the proposed disposition of open space and limitations of building height as presented on the parameter plan, taken together with the landscaping proposals pursuant to the LVIA could serve to provide visual containment and soften the edges of the proposed development, it would nevertheless erode the overall spaciousness of the site. As a result, the visual break between the existing and distinct characters of residential development to either side of the site would be materially diminished.
26. This material change to the character of the site would be particularly noticeable from parts of Kiln Lane and the Big Field, where the appeal site's rising topography limit inter visibility with the residential enclave of Nutwood, and as a result impart a rural sparsely developed appearance. Although these visual effects would on the whole be relatively localised, they would nevertheless constitute a marked and adverse change to the spacious character of the appeal site and serve to blur the distinction between the differing patterns of development to either side of it from viewpoints classified in the appellants' LVIA as having medium to high levels of visual sensitivity.
27. In contrast to the situation pertaining to the 2013 Decision previous long-range views across the site are now substantially restricted by the leylandii hedging, which materially differentiates the current circumstances to those that were before the Inspector determining that previous case. This change in circumstances taken together with the number of houses proposed in the context of landscaping and height parameters put forward in this case lead me to the view that the appeal scheme's adverse character and appearance effects would be relatively localised and at the moderate, rather than the significant, end of the scale. In these respects, I consider my assessment to be broadly consistent with the findings on visual impacts set out in the submitted LVIA. I readily accept that the type of adverse effects I have described could occur as a result of the development of any greenfield site, a point made by the Inspector in the 2014 Decision and the appellants. It is nevertheless a harm that needs to be weighed in the overall balance.

28. Accordingly, for the reasons set out above, I conclude on this main issue that the proposed development would cause harm to the character and appearance of the area. The appeal scheme would thus conflict with Policy CS13 of the Core Strategy insofar as it requires proposals to respect, and where appropriate, enhance the character and distinctiveness of the landscape character area in which it is proposed.

Living Conditions

29. Whilst the parameter plan sets out the general area of the site within which residential development would be located, layout, scale, appearance and landscaping are all reserved matters. Thus, whilst the Council has identified shortcomings of the illustrative layout in terms of the relationship between potential habitable room windows and garden areas, and the outlook and natural light implications associated with the gardens and windows adjacent to the leylandii hedge, these issues do not weigh against the proposed development at this stage.
30. The Parish Council points out that the illustrative layout is the only one that has been provided in respect of the appeal, and no alternatives have been provided to show how these potential residential amenity considerations might be addressed. Nevertheless, the illustrative layout is clearly not the only way that 33 dwellings could be arranged on the site in line with the parameter plan, and other design elements relevant to landscaping and appearance could also address potential residential amenity implications. For these reasons, I consider that it has not been demonstrated at this stage that the site would be incapable of accommodating 33 dwellings without giving rise to material concerns relating to the living conditions of its future occupiers.
31. Accordingly, these considerations lead me to the conclusion on this main issue, and in terms of the matters for detailed consideration at this stage, that the proposed development could secure adequate living conditions for its future occupiers. As a result, the proposed development would not conflict with Policy ENV22 of the Mole Valley Local Plan (adopted October 2000), insofar as it requires, amongst other things, development designs and layouts which provide a satisfactory environment for their occupiers.

Other Considerations

Planning Obligation

32. Following the closure of the hearing, I was supplied with a duly executed agreement pursuant to s106 of the Town and Country Planning Act 1990 (as amended) which would secure affordable housing as part of the development and make a contribution towards public transport. Policies CS4 and CS18 of the Core Strategy and Policy MOV2 of the Local Plan, taken together, require residential developments to provide 40% of their yield as affordable housing, and contributions to transport initiatives giving priority to, amongst others, users of public transport. The Framework is clear (at paragraph 63) that affordable housing requirements are expected to be met on-site, and that opportunities to promote public transport should be identified and pursued (at paragraph 104). Contributions set out in the obligations are proportionate and directly related to the proposed development. Taking these considerations together, I consider the submitted obligations to meet the three legislative and policy tests set out in Regulation 122(2) of the Community Infrastructure Levy

Regulations 2010 (as amended), and the Framework (at paragraph 57), and that I can lawfully take them into account in my assessment of the planning merits of the appeal.

Other Appeal Decisions

33. The appellant has provided a number of other appeal decisions aside from the ones focused on previous proposals relating to the site. Some of them are recent decisions relating to sites elsewhere in the District⁵, whilst the others relate to locations elsewhere in England⁶. In terms of the appeals relating to Mole Valley sites, the appellant points me to the Inspectors' conclusions relating to general and affordable housing supply and delivery matters. In terms of the appeals relating to sites elsewhere, the appellant draws my attention to the potential for housing supply matters to constitute other considerations to be weighed against Green Belt harms, and the Inspectors' conclusions on these matters in the overall balance. Beyond these points the quantity of development proposed in the other cases, their locations and site and proposal specific factors (including the differing housing supply and plan-making aspects pertaining to the appeals relating to sites outside of the District), mean that the Inspectors' related findings are not generally applicable to the current appeal. I also note that of those relating to the District, one allowed appeal relates to a housing proposal outside of a settlement boundary, but not in the Green Belt, and another dismissed appeal relates to a Green Belt site. Accordingly, whilst I have taken these decisions into account, it is a well-established principle that each appeal is to be determined on its own merits.

Housing Supply and Delivery

34. Whilst Policy CS1 contemplated a Green Belt review and the production of a land allocations development plan document to ensure that sufficient land would be available to meet development needs over the plan period, this has not taken place. Moreover, the implications of the latest Housing Delivery Test (HDT) relating to the District is that a 20% buffer is applied (per paragraph 74 of the Framework) to the five year requirement as a result of significant under-delivery of housing over the three years prior to the date of the test. According to the latest figures published in its most recent Annual Monitoring Report (the AMR) the Council can only demonstrate 2.9 years' worth of deliverable housing sites, and this figure is not contested by the appellant. The AMR identifies a shortfall of 1,173 homes, against a five year requirement including the 20% buffer of 2,748 dwellings. It is clear that these measures point to significant underperformance in the District in housing supply and delivery terms.
35. Due to the HDT result, the Council is required to produce an action plan to assess the causes of under-delivery and identify actions to improve this metric in future years (per paragraph 76 of the Framework). The Council's latest HDT Action Plan (July 2022) (the Action Plan) anticipates that the adoption of the emerging local plan would take place at some point in 2023. In terms of major developments, the majority of housing delivery is anticipated to come via emerging local plan allocations, and several of the potential actions to boost delivery set out in Table 6 of the Action Plan are either wholly or partially reliant on the adoption of the emerging plan.

⁵ APP/C3620/W/21/326857, APP/C3620/W/21/3272057, APP/C3620/W/21/3288318

⁶ APP/B1930/W/20/3265925, APP/C1950/W/20/3265926, APP/V1505/W/22/3298599

36. The examination of the local plan has reached an advanced stage, with the appointed Inspector reaching the point of identifying the main modifications that she considers to be necessary to secure its soundness. Nevertheless, following the Secretary of State's 'Update on the Levelling Up Bill' Written Ministerial Statement of 6 December 2022, and the publication of draft revisions to the Framework later that month, the examination has been paused pending updates to national policy, with the Council indicating that it wishes the Inspector to consider further modifications to the emerging plan, including the removal of all allocations relating to Green Belt sites. At the time of writing this decision letter, it is unclear when any updates to national policy might be published and what form they may take.
37. The examining Inspector's latest note⁷ (the Note) on the progress of the examination, which extends the pause, refers to the inevitable delay to the plan's adoption. The Note indicates that examination could be expedited if progressed on the basis of the Inspector's suggested main modifications. However, there is no evidence before me to indicate that the Council wishes to pursue this course at this point. At the hearing, the appellant described the pause in the examination to be "indefinite" and I concur, on the basis of material that has been supplied as part of the appeal, that this is an accurate assessment. Consequently, I consider that the emerging local plan is unlikely to lead to a material improvement to the general housing supply in the near term. Although the appellant made other criticisms of the emerging plan, including its potential housing requirement, those considerations are relevant to the examination and are not matters which are within the scope of my consideration of the merits of this appeal.
38. Taking these considerations together, the current housing supply situation is a bleak one, with uncertain prospects of this being resolved in a plan-led way for some time. Against this background, the provision of 33 dwellings, whilst a relatively modest overall amount would make a marked contribution to housing supply, which, despite being pursuant to an outline application, the appellant asserts could come forward in reasonably short order. Accordingly, this is a matter which attracts significant weight in favour of the appeal proposal.

Affordable Housing

39. The Core Strategy, which was adopted in 2009, acknowledges an 'acute' need for affordable housing (at paragraph 6.1.16), and sets a target equating to 47.5 dwellings per annum, over the period 2006 to 2026. A recent press article⁸ provided by the appellant includes a quote from Surrey Community Action that "affordable housing continues to be a critical issue in Surrey", and identifies the shortage in rural areas as "particularly acute". The appellant suggests that the affordability ratio for the District is one of the highest in England and the Council has not contested this position.
40. According to the Council's latest AMR, a total of 628 affordable homes have been delivered from 2006 to 2022, against a target of 760. Over recent years, delivery of affordable homes in the District has been below the Core Strategy target, in some cases significantly so, with no affordable homes delivered in 2021/22. The appellant also points to the latest Strategic Housing Market

⁷ ED62: Inspector Note 25

⁸ Included as Appendix 22 of the appellant's Statement

Assessment⁹ which supports the production of the emerging plan and identifies 262 households needing affordable accommodation per annum, which once re-lets and other forms of provision are taken into account equates to a need for 143 new dwellings a year. Moreover, the appellant highlights that the removal of Green Belt allocations from the emerging plan, an option that is being explored by the Council, but is yet to be subject to examination, would mean that their associated yield of some 625 affordable dwellings would not be forthcoming¹⁰. Taken together, these considerations point to considerable under-delivery at the District-wide level, with significant challenges relating to future supply.

41. The appellant has supplied a Desktop Review of Housing Need (2019) (the Desktop Review) relating to Brockham, produced in support of an affordable housing scheme elsewhere in the Parish, which has supplied 12 social rent and 5 discounted market sales homes. The Desktop Review finds (at Page 2) a need for some 35 affordable rented homes, against a backdrop of reductions in supply in the Parish since 2009 as a result of houses in that tenure being sold under right to buy arrangements, which the appellant estimates has led to a net loss of affordable stock in the area, taking into account affordable completions elsewhere. These considerations taken together with the potential of pending applications for households to enter the housing register relevant to the area since the date of the Desktop Review, point to a clear localised requirement for affordable housing, which has not been fully met by recent completions as attested to in the Desktop Study, which found that they would meet around 50% of the need it identifies. No other proposals have been drawn to my attention that would contribute to meeting this locally-derived need.
42. The proposed development would supply 14 affordable houses and this would be secured by the submitted planning obligation, a contribution slightly in excess of the 40% requirement set out in the Core Strategy. The obligation ensures that a mix of tenures to be set out in an agreed affordable housing scheme would be supplied, which would include up to 3 First Homes and a minimum of 6 dwellings for affordable rent or social rent. It follows from the above that the affordable housing provided by the proposed development would make an important contribution to meeting both local and district level needs. In the context of the wider supply and delivery matters outlined above this is a matter that carries significant weight in favour of the proposal.

Provision of Open Space

43. The proposed development would include public open space, and the parameter plan shows that this would include the most elevated portion of the site, which could offer some compensation for views lost from adjacent footpaths as a result of the leylandii hedge. The illustrative concept masterplan shows potential routes via the public open space through the site, and linkages with adjacent rights of way, which offer differing options for connectivity from Poland Woods and its environs to Kiln Lane. Whilst mindful of points made at the hearing that the Parish is already well supplied with accessible open space, including the Big Field across Kiln Lane from the appeal site, it is still a benefit

⁹ Included as Appendix 17 of the Council's Statement

¹⁰ Per Examination Document ED54: Council's Note 31 – Main Modification Arising from National Policy Changes, at paragraph 11.1; and referenced in the Surrey Live news article included as Appendix 22 to the appellant's statement

of the proposal to be weighed in the balance. Nevertheless, as the majority of the site would be given over to residential development, I am not persuaded that much support is given to the appeal proposal by the Framework's expectation (at paragraph 145) that local planning authorities should plan positively for the beneficial use of Green Belts, in terms of access, recreation, retention and enhancement of landscapes and visual amenity. Neither does the site, whilst overgrown, currently constitute either damaged or derelict land for the purposes of the Framework (at paragraph 145).

44. The proposal would secure biodiversity net gain estimated to be of around 11.13%, which would exceed the Department for Environment Food and Rural Affairs standard. Although net gains are expected to be provided by virtue of national policy, this would nevertheless be a benefit of the proposal as it would not be delivered in the absence of the appeal scheme. It therefore weighs in favour of the proposal.
45. Accordingly, taken together, these aspects of the proposal carry moderate weight in its favour.

Sustainable Construction

46. A Sustainability and Energy Statement is provided in support of the proposed development which outlines how efficient construction techniques and on-site renewable technologies could be integrated into the proposed development. Estimates suggest that the carbon emissions reductions of such an approach would be around 42%, considerably above the 10% requirement of Policy CS19 of the Core Strategy. Whilst the design and layout of the proposals are not for detailed consideration at this stage, the appellant suggested at the hearing that the recommendations of the Sustainability and Energy Statement could be secured by condition. On this basis, I consider these aspects of the proposed development make a contribution to the environmental dimension of sustainable development through its assistance with moving to a low carbon economy (per paragraph 8(c) of the Framework) and to be a consideration that weighs moderately in the appeal scheme's favour.

Location

47. The appeal site is adjacent to Brockham which is identified as a 'Large Rural Village' in the emerging local plan with a reasonable level of services and infrastructure, which are within a walkable distance. The planning obligation seeks to secure measures relating to public transport which could further reduce the need to use private vehicles to access services. Moreover, the appeal site is not the best and most versatile agricultural land. I readily accept that these factors weigh in favour of the development, but do so to a modest degree.

Footpaths and Highways

48. The proposed development seeks to extend the footway on the south side of Kiln Lane to link to a proposed uncontrolled pedestrian crossing to the other side, which it would also provide. Whilst these measures would facilitate pedestrian movement relating to the proposed development, and thus be directly related to it in those terms, they would also link to existing rights of way, and potential paths through the site, and thus provide a wider, albeit relatively modest benefit.

Economic Matters

49. Based on Home Builders Federation and Homes and Communities Agency research, which has not been supplied, but neither has been contested by any party, the appellant estimates that the proposed development would create around 50 direct jobs during the construction phase, circa 76 jobs in the supply chain, and some 5 additional indirect jobs in the local economy over the longer term. As the majority of additional employment created would be temporary, and the number of indirect jobs created would be modest, this consideration carries limited weight in the proposed development's favour.
50. Although council tax receipts arising from the proposed development are mentioned, these would be directly related to the services required by its future occupants, and as a result this is a factor that has a neutral effect on the overall planning balance. Similarly, the potential for the proposed development to generate a new homes bonus payment to the Council is a matter that attracts the most limited weight given the clear advice of the PPG¹¹ that it "would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body".

Other

51. The proposal could make acceptable arrangements for drainage and there are no objections on this front from the relevant agencies. Detailed designs could successfully address relationships with adjacent properties so that the residential amenity of their occupants would not be harmed, and similarly, the proposals could avoid harm to heritage assets. No objections have been received from the local highway authority about the safety or capacity implications of the proposed development subject to the imposition of planning conditions. However, these considerations point to an absence of harm in all these terms rather than positive benefits of the scheme and thus weigh neither in favour of, nor against, the proposed development.

Planning Balance and Conclusion

52. For the purposes of the Framework (footnote 8), the development plan policies of most importance for determining the appeal are deemed out of date due to the Council's housing supply and delivery positions. In such circumstances, the Framework is clear (at paragraph 11(d)(i)) that permission should be granted unless, in the first instance, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Green Belts are amongst the areas or assets of particular importance referred to (per footnote 7 of the Framework).

¹¹ 'Determining a planning application' Paragraph: 011 Reference ID:21b-011-20140612

53. The Framework establishes (at paragraph 147) that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. National policy is also clear that “great importance” is attached to Green Belts (at paragraph 137 of the Framework). Substantial weight is to be given to any harm to the Green Belt and ‘very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is *clearly outweighed* by other considerations. This is a high hurdle for a proposal to overcome.
54. For the reasons set out above, the proposed development would be inappropriate, and there would be harm to the openness, and the purpose of the Green Belt relating to encroachment. I have also found a moderate level of harm to the character and appearance of the area. Whilst I have found on the basis of the matters submitted for detailed consideration at this stage that the proposed development could provide acceptable living conditions for its future occupants, any absence of harm in these terms is a factor that has a neutral effect on the planning balance. A number of benefits would flow from the proposed development, including in terms of provision of market and affordable housing which both attract significant weight, its sustainable construction and open space/biodiversity aspects which are of moderate weight, and a handful of other positive aspects of modest or limited weight. Taken together these aspects of the proposal would weigh considerably in its favour. Nevertheless, these benefits do not *clearly* outweigh the substantial weight attracted by the proposed development’s Green Belt harm. For these reasons, very special circumstances have not been demonstrated in this case, and I conclude that the proposed development would run contrary to the Framework, insofar as it expects Green Belts to prevent urban sprawl by keeping land permanently open. For these reasons too, it would conflict with Policy CS1 of the Core Strategy, which amongst other things, anticipates that development would be managed in the Green Belt in the light of national policy.
55. As the application of national Green Belt policy provides a clear reason for refusing the development proposed, the tilted balance does not apply in this case. As a consequence, no material considerations advanced in favour of the proposed development, including the operation of the presumption in favour of sustainable development set out in the Framework (at paragraph 11), justify a decision other than in accordance with the development plan, with which, in terms of the above-cited policies, the appeal scheme would clearly conflict.
56. I therefore conclude, for the reasons set out above, and taking fully into account all other matters raised, that the appeal should be dismissed.

G J Fort

INSPECTOR

APPEARANCES

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INTERESTED PARTIES:

Roger Abbott
Noel Humphrey
Colin Smith BA(Hons) MRTPI

Colin Smith Planning
Appearing on behalf of
Brockham Parish Council

DOCUMENTS RECEIVED AT AND AFTER THE HEARING

Landscape and Visual Impact photographs relating to a previous proposal at the site

A3 Copies of the agreed site visit route map

Appeal decision APP/C3620/W/21/326857 - Church Lane Nursery, Church Lane, Headley, Surrey KT18 6ND

Extract from Chapter 6 of the Mole Valley Core Strategy

The Council's Green Belt Review (January 2020)

The Council's Annual Monitoring Report 2021/22

The Council's Housing Delivery Test Action Plan

The Council's and Appellant's Written Comments on ED62: Inspector Note 25 relating to the examination of the Mole Valley Local Plan

Completed s106 Agreement