



Appeal Decision

Site visit made on 10 December 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2025

Appeal Ref: APP/M3645/W/24/3347328

Woodside House, Copthorne Bank, Copthorne, Surrey RH10 3JD

- 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 Mr and Mrs B Delgado against the decision of Tandridge District Council.
 - The application Ref is TA/2023/1480.
 - The development proposed is demolition of existing dwelling, garage, and outbuildings (retention of shed and garage). Construction of 2 x detached dwellings and 1 x detached garage with new driveway and car parking areas.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling, garage and outbuildings (retention of shed and garage). Construction of 2 x detached dwellings and 1 x detached garage with new driveway and car parking areas at Woodside House, Copthorne Bank, Copthorne, Surrey RH10 3JD in accordance with the terms of the application, Ref TA/2023/1480, subject to the conditions in the attached schedule.

Preliminary Matters

2. On 12 December 2024, Government published a revised National Planning Policy Framework (the Framework). This included revisions to policies that are pertinent to the appeal, such as those relating to development in the Green Belt. During the appeal the parties were invited to comment on the relevance of the revised Framework to the appeal proposal. In my decision, I have had regard to the parties' written responses.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies; and
 - The effect of the proposal on protected species.

Reasons

Whether inappropriate development

4. The application site comprises a substantial plot, containing a large, detached, two-storey dwelling, detached double garage, outbuildings, and garden. The site is outside a settlement boundary and is within the Green Belt.

5. Paragraph 142 of the Framework attaches great importance to Green Belts. It states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and identifies the essential characteristics of Green Belts are their openness and their permanence.
6. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014 (TLP) supports the fundamental aim of keeping land permanently open and restricts inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except where very special circumstances exist. Policy DP10 reflects the provisions of paragraph 153 of the Framework which resists inappropriate development in the Green Belt.
7. TLP Policy DP13 identifies certain forms of development that are not inappropriate within the Green Belt. Of particular relevance are criteria (F) and (G) of Policy DP13 which, subject to meeting certain requirements, permit the replacement of buildings and support the limited infilling or the partial or complete redevelopment of previously developed land outside Defined Villages. These exceptions broadly reflect criteria (d) and (g) of paragraph 154 of the Framework.
8. In addition, paragraph 155 of the Framework identifies further circumstances where development is not inappropriate in the Green Belt. Paragraph 155 states the development of homes should not be regarded as inappropriate where (a) the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; (b) there is a demonstrable unmet need for the type of development proposed; (c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework; and (d) where applicable the development proposed meets the 'Golden Rules' requirements set out in Framework paragraphs 156-157.

Whether a replacement dwelling

9. Policy DP13(F) supports development of replacement buildings within the Green Belt where the proposed new building is: (1) in the same use as the building it is replacing; (2) is not materially larger than the building it is replacing; and (3) is sited on or close to the position of the building it is replacing, except where an alternative siting within the curtilage demonstrably improves the openness of the Green Belt.
10. The proposed development would represent a total increase in floorspace of 39% and built volume of 38%, relative to the existing buildings on site. Through this substantial increase in built form, the proposed development would be materially larger than the buildings being replaced.
11. Planning permission has been granted for extensions to the existing dwelling¹. The combined footprint of the proposed development would be no greater than the existing dwelling and its permitted extensions. However, the permitted extensions had not been constructed at time of my site visit and therefore do not contribute to the dwelling's existing built form.
12. The proposed development would comprise two dwellings and a detached garage. The front dwelling would be sited broadly within the footprint of the existing

¹ LPA ref: TA/2021/766

dwelling. However, the rear dwelling would be set back within the existing rear garden, thereby resulting in a loss of open land. Therefore, the rear dwelling would not be sited on or close to the position of the building it replaces, and the alternative siting would not demonstrably improve the openness of the Green Belt.

13. The proposal would be in the same use as the existing site, satisfying criterion Policy DP13(F)(1). However, through its size, scale, and siting, the proposed development would fail to comply with criteria (2) and (3) of Policy DP13(F). The proposal would not therefore comprise a replacement dwelling in the Green Belt.

Whether limited infilling or redevelopment of previously developed land

14. Policy DP13(G) permits limited infilling or the partial or complete redevelopment of previously developed sites in the Green Belt outside Defined Villages, where the proposal would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
15. The site is located at Copthorne Bank, which extends northeast from the village of Copthorne. The area is characterised principally by its linear arrangement of dwellings on either side of the highway, interspersed with agricultural land. A short distance to the south is a modern cul-de-sac and there is a public house to the southwest. As discussed above, the rear dwelling would be set back in the site behind the front dwelling within an open area of garden land.
16. The siting of the rear dwelling would not reflect the layout of dwellings in the area and would not fill any clear gap between existing development. Therefore, the proposal would not comprise limited infilling.
17. The proposed development would be wholly within the existing dwelling plot. The appellant asserts the site comprises previously developed land, drawing on *Dartford Borough Council v The Secretary of State for Communities and Local Government & Ors* [2017] EWCA Civ 141 (14 March 2017) which concluded the exclusion of private residential gardens from the Framework's definition of 'previously developed land' referred only to land in built-up areas.
18. However, the development would introduce substantial built form and urbanising features across the site, including a driveway, car parking, hardstanding, and domestic paraphernalia. In addition, the net increase in dwellings would intensify the use of the site, such as through additional vehicle movements.
19. Irrespective of whether the site comprises previously developed land, the development would have a greater, adverse impact on the openness of the Green Belt than the existing development. The proposal would not therefore meet the criteria for the limited infilling or the partial or complete redevelopment of previously developed sites, as set out at Policy DP13(G).

Grey belt and other tests (Framework paragraph 155(a)-(d))

20. The Framework defines 'grey belt' as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143, and excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

21. The existing dwelling fronts onto the highway. There is a dwelling to the north, and agricultural land to the south and beyond the site's rear boundary. Through its linear layout, adjoining agricultural land and dwellings, the appeal site is typical of the area's character.
22. The proposed development would be contained within the existing boundaries of the dwelling plot and would not result in the unrestricted sprawl of large built-up areas, the merging of towns, nor affect the setting and special character of historic towns. Logically, I must therefore conclude the site does not strongly contribute to purposes (a), (b) and (d) of paragraph 143 of the Framework. In addition, the proposal would not affect areas or assets in footnote 7 of the Framework (other than Green Belt). The proposal would therefore utilise grey belt land.
23. The scale of the proposed development would provide a similar overall quantum of development in terms of footprint and volume to the permitted extensions and existing dwelling. However, the built form would be spread across the site and would be accompanied by hardstanding and domestic features and would intensify its use. The spatial impacts of the proposed development on Green Belt openness would therefore be greater than the existing dwelling, and the fall-back position offered by the permitted extensions.
24. The site is well-screened by existing, mature boundary vegetation, and would not be visually prominent within wider views of the landscape. Views of the development would principally be experienced from passing vehicles and would not be conspicuous from public vantage points or within the wider landscape.
25. The front dwelling would be visible from the site's frontage and the rear dwelling would be partly visible, set back in the site. The site contains existing residential development, and there are other nearby dwellings, and therefore the magnitude of visual change would be small. Nonetheless, the increased built form on the site would have a marginally greater visual impact than the existing development.
26. The spatial and visual impacts of the proposed development would result in a small loss of Green Belt openness. However, the development would utilise grey belt land and would not fundamentally undermine the purposes, taken together, of the remaining Green Belt across the planning authority's area. Therefore, the proposal would comply with criterion (a) of Framework paragraph 155.
27. The Council accepts it cannot demonstrate a five-year supply of housing and delivery of housing has been below 75% of the housing requirement for the past three years. The appellant draws on the Council's Annual Monitoring Report to conclude the Council has a housing land supply equivalent to 1.92 years. Therefore, there is a significant shortfall in past delivery and future supply. Consequently, for the purposes of criterion (b) of Framework paragraph 155, there is a demonstrable unmet need for the type of development proposed.
28. This section of Copthorne Bank has a rural character but, due to the presence of existing dwellings in the vicinity of the site, the proposed development would not be in an isolated location. Furthermore, the highway connects the site with nearby settlements including Copthorne with Burstow, Smallfield, and Domewood.
29. Whilst there are bus stops nearby, Copthorne Bank is subject to a 50mph speed limit and there are no footpaths along this section. Future occupants would therefore be dependent on use of a private car to meet their day-to-day needs.

However, paragraph 110 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

30. The proposal would result in a net increase of one dwelling on the site, and therefore the volume of traffic movements associated with the proposed development would be small. The proposed development would utilise the existing vehicular access and there would be space for the parking and turning of vehicles within the site. The local highway authority did not object to the proposal. Therefore, I am content the proposal would not have significant impacts on the capacity of the transport network, congestion, or highway safety.
31. Within the context of its rural location, I am satisfied the proposal would be in a sustainable location, as required by criterion (c) of Framework paragraph 155, that fulfils the requirements of paragraphs 110 and 115 of the Framework.
32. The proposed development is not major development, and therefore the requirement of criterion (d) of Framework paragraph 155 to satisfy the 'Golden Rules' are not applicable to the appeal proposal.
33. As set out above, the proposal would utilise grey belt land, there is a demonstrable unmet need for housing, and the development would be in a sustainable location. The Golden Rules are not applicable. The proposal would therefore satisfy criteria (a)-(d) of paragraph 155 of the Framework. Consequently, the proposed development would not be inappropriate development within the Green Belt.
34. As set out above, the proposal would not meet the requirements of Policy DP13 for replacement dwellings, limited infilling, or redevelopment of previously developed land. However, Policy DP13 pre-dates the publication of the Framework and includes no provision for development of grey belt land. The weight to be afforded to the scheme's conflict with Policy DP13 is therefore diminished.
35. The proposed development would utilise grey belt land and would satisfy all criteria of paragraph 155 of the Framework. For this reason, the proposed development would not be inappropriate development.
36. The proposal would therefore comply with TLP Policy DP10 which protects the Green Belt from inappropriate development.

Protected species

37. In its decision, informed by consultation advice provided by Surrey Wildlife Trust's (SWT) Ecology Planning Advice Service, the Council concluded the proposal contained insufficient information to demonstrate that the proposal would not have an unacceptable effect on protected species.
38. The proposal was accompanied by an Ecological Appraisal Report, Wychwood Environmental Ltd November 2023 (EAR). Reflecting advice from SWT, the appellant subsequently submitted a Bat Emergence Survey, Wychwood Environmental Ltd (July 2024), with further information contained within the appeal statement of case.
39. SWT have reviewed this information and, in relation to bats advise that, prior to occupation, evidence that a bat mitigation licence has been secured should be submitted. In addition, SWT advise a Biodiversity Enhancement Management Plan and Construction Environmental Management Plan should be secured through

planning conditions. SWT also confirmed no further information is required in respect of hazel dormouse.

40. Subject to such conditions being imposed, I am satisfied the proposal would not have an adverse effect on protected species.
41. The proposal would therefore comply with Policy CSP17 of the Tandridge District Core Strategy 2008 which requires development proposals protect biodiversity and provide for the maintenance, enhancement, restoration and, if possible, expansion of biodiversity, by aiming to restore or create suitable semi-natural habitats and ecological networks to sustain wildlife in accordance with the aims of the Surrey Biodiversity Action Plan. In addition, the proposal would satisfy TLP Policy DP19 which requires proposals demonstrate protected or priority species will not be harmed, or appropriate mitigation measures will be put in place.

Conditions

42. The appellant confirms they raise no objection to the Council's suggested conditions, which include pre-commencement conditions. I have considered the suggested conditions against the Framework and Planning Practice Guidance. In addition to the standard time limit for commencement, in the interests of certainty I have imposed conditions to ensure the development is carried out in accordance with the approved plans.
43. To conserve the character and appearance of the area, I have attached conditions requiring submission of details of external materials, hard and soft landscape works, and tree protection plan.
44. In the interest of highway safety, I have included a condition requiring space for the parking and turning of vehicles be laid out prior to occupation of the development. To promote sustainable transport, I have attached conditions requiring provision of electric vehicle charging and cycle storage.
45. In the ecological interests of the site, including the conservation of protected and priority species, I have included conditions requiring submission of an Ecological Enhancement Plan, Construction Environmental Management Plan, and evidence of a bat mitigation licence. In addition, I have included a condition requiring the development be carried out in accordance with the Ecological Appraisal Report's recommendations and identified mitigation measures.
46. To assist in the reduction of emissions in accordance with Policy CSP14 of the Tandridge District Core Strategy 2008, I have included a condition requiring the provision of on-site renewable energy.
47. To ensure privacy and ensure suitable living conditions for future occupants, I have included a condition requiring obscure glazing at specified windows.
48. I have not imposed the suggested condition to remove permitted development rights. Paragraph 55 of the Framework indicates planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Such a condition would not be necessary to make the appeal proposal acceptable in planning terms and would not comply with the Framework.

Conclusion

49. For the reasons given above, having regard to the development plan taken as a whole, and all other relevant material considerations, I conclude the appeal should be allowed.

E Dade

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

The development hereby permitted shall be carried out in accordance with drawing nos 1228/01 *Existing Site Layout Plan*; 1228/02 D *Replacement Dwelling (Rear) Proposed Floor Plans & Roof Plan*; 1228/03 A *Replacement Dwelling (Rear) Proposed Elevations*; 1228/04 B *Proposed Site Layout Plan*; 1228/05 *Replacement Garage Building Proposed Plans & Elevations*; 1228/06 A *Replacement Dwelling (Front) Proposed Floor Plans and Roof Plan*; 1228/07 *Replacement Dwelling (Front) Proposed Elevations*; 1228/08 *Existing Floor Plans*; 1228/09 *Existing Elevations*; 1228/10 *Detached Garage – Existing Elevations*; 1228/11 A *Block Plan*; 1228/12 *Site Location Plan*.

- 2) No development above ground level shall start until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details.

- 3) No development above ground level shall start until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- proposed finished levels or contours
- means of enclosure
- car parking layouts
- other vehicle and pedestrian access and circulation areas
- hard surfacing materials
- minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- tree and hedgerow planting as compensation for those elements being removed.

Details of soft landscape works shall include all proposed and retained trees, hedges and shrubs; ground preparation, planting specifications and ongoing maintenance, together with details of areas to be grass seeded or turfed. Planting schedules shall include details of species, plant sizes and proposed numbers/densities.

All new planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion or occupation of any part of the development (whichever is the sooner) or otherwise in accordance with a programme to be agreed.

Any trees or plants (including those retained as part of the development) which within a period of 5 years from the completion of the development die, are removed, or, in the opinion of the Local Planning Authority, become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written

consent to any variation. The hard landscape works shall be carried out prior to the occupation of the development.

- 4) No development shall start until a Tree Protection Plan relating to all stages of development, for the protection of all trees and hedges to be retained on site or trees located offsite within 12 metres of the site boundary, has been submitted to and approved in writing by the Local Planning Authority. These details shall observe the principles of BS 5837:2012 (Trees in relation to design, demolition and construction – Recommendations), shall be implemented prior to any works commencing on site, shall be retained during the course of development, and shall not be varied without the written agreement of the Local Planning Authority.

In any event, the following restrictions shall be strictly observed unless otherwise agreed by the Local Planning Authority:

(a) No bonfires shall take place within the root protection area (RPA) or within a position where heat could affect foliage or branches.

(b) No further trenches, drains or service runs shall be sited within the RPA of any retained trees.

(c) No further changes in ground levels or excavations shall take place within the RPA of any retained trees.

- 5) The development hereby approved shall not 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. Thereafter the parking/turning areas shall be retained and maintained for their designated purposes.
- 6) The development hereby approved shall not be occupied unless and until each of the proposed dwellings are provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority and thereafter retained and maintained to the satisfaction of the Local Planning Authority.
- 7) The development hereby approved shall not be occupied unless and until facilities for the secure, covered parking of 2 bicycles per dwelling and the provision of a charging point for e-bikes by said facilities have been provided within the development site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and thereafter the said approved facilities shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.
- 8) Prior to the commencement of development, an Ecological Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall only be undertaken in accordance with the approved Ecological Enhancement Plan, all measures set out within the approved Ecological Enhancement Plan shall be implemented prior to the first occupation of the dwelling and retained at all times thereafter.
- 9) Prior to the commencement of development, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall only be undertaken in accordance with the approved Construction Environmental Management Plan, all measures set out within the approved Construction Environmental Management

Plan shall be implemented prior to the first occupation of the dwelling and retained at all times thereafter.

- 10) Prior to first occupation of the development hereby permitted, evidence of the bat mitigation licence being secured shall be submitted to be approved in writing by the Local Planning Authority.
- 11) The development hereby permitted shall be carried out in accordance with the recommendations and mitigation measures set out in the 'Ecological Appraisal Report' by Wychwood Environmental Ltd (November 2023) and 'Bat Emergence Survey' by Wychwood Environmental Ltd (July 2024).
- 12) Before the development hereby approved is occupied, the renewable energy technology as specified in the application details shall be installed and shall thereafter be retained in perpetuity in accordance with the approved details.
- 13) Before the development hereby approved is occupied, the first-floor side windows to both dwellings shall be fitted with obscure glass and shall be non-opening unless the parts of the windows which can be opened are more than 1.7m above the floor of the room in which the windows are installed and shall be permanently maintained as such.

END OF SCHEDULE