



Appeal Decision

Hearing held on 1 April 2025

Site visit made on 2 April 2025

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 April 2025

Appeal Ref: APP/C3620/W/24/3347843

**Ashstead Park Garden Centre, Pleasure Pit Road, Ashted, Surrey
KT21 1HU**

- 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 John Dipre of Marsden Nurseries Ltd against the decision of Mole Valley District Council.
 - The application Ref is MO/2022/0474.
 - The development proposed is erection of 23 dwellings (including 4 affordable units) with associated access, car parking and garaging, refuse/recycling storage, landscaping, earthworks and infrastructure following demolition and removal of existing buildings and structures.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was modified during the course of the Council's determination of the application, with a reduction in the number of proposed dwellings from 26 to 23.
3. The Mole Valley Local Plan 2020-2039 (the Local Plan) was adopted in October 2024. The policies against which the application was determined were consequently superseded. I have assessed the appeal with reference to new policies within the Local Plan.
4. A revised version of the National Planning Policy Framework (the Framework) was adopted in December 2024, and related revisions have since been made to the Planning Practice Guidance (PPG). The revisions have direct relevance to interpretation of the Local Plan and the matters in dispute. The parties were able to address the implications of this at the Hearing, and I shall consider them further below.
5. In interests of accuracy and with the agreement of the parties I have modified the site name and affiliation of the appellant in the banner heading above.

Main Issues

6. The main issues are:
 - whether the development would be inappropriate in the Green Belt, including whether it would meet the 'Golden Rules' and within this context make appropriate provision of affordable housing;

- the effect of the development on the openness of the Green Belt;
- the effect of the development on the character and appearance of the area;
- if the development was inappropriate, whether 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 necessary to justify it.

Reasons

Inappropriate development

7. The site is located within the Metropolitan Green Belt. Within this context Policy EN1 of the Local Plan defines categories of development that would be not inappropriate. These largely mirror those contained within the Framework as it existed prior to the December 2024 revisions. This notably includes provisions related to previously developed land (PDL) in parts 3(g) and (h) of Policy EN1 which have since either been removed from or revised within paragraph 154(g) of the Framework. Though discrepancies therefore exist, given that part (1) of Policy EN1 clearly defers to national policy it remains possible to interpret it with reference to the current Framework.

(a) PDL

8. The main parties are agreed that the site is PDL. Insofar as it is in use as a garden centre, and the Council has confirmed that all parts of it are lawful, I agree. As shown on the appellant's plans, the site however also contains open areas of grass, a large proportion of which is currently covered by plastic sheeting. A 2022 plan of the site indicates that these areas previously formed part of a larger space in relation to which they appear 'left over'. I have been provided with and saw no evidence that these areas have ever hosted any permanent structure or fixed surface infrastructure. Though much of this area would remain as green open space within the layout of the proposed development, there would be some encroachment of roads and structures into it.
9. Even if I was to accept the Council's view that all parts of the curtilage of the garden centre should in any case be considered as PDL, part of the broad grass verge outside the site boundary would also be required to form an enlarged access. Again, I have been provided with and saw no evidence that these areas have ever hosted any permanent structure or fixed surface infrastructure. As the proposed development would therefore utilise land that is not PDL, the exception set out within paragraph 154(g) of the Framework is not applicable.

(b) Grey belt

10. Whilst no other exceptions set out within the Framework had been previously identified as relevant, whether or not the development would make use of grey belt land was considered at the Hearing. Grey belt land need not be PDL and is subject of the new exception set out in paragraph 155 of the Framework.
11. The identification of grey belt requires an assessment of whether the land in question strongly contributes to purposes (a), (b) and (d) of the Green Belt, each of which relates to towns rather than villages. Epsom, the outer edges of which are visible from the site along Wilmerhatch Lane, is a town, whereas Ashstead is defined in the Local Plan as a 'suburban village'. On the ground it

can be seen that the modern settlement was established through substantial suburban expansion around a preexisting village, the core of which is still styled Ashtead Village. However, Ashtead now bears little resemblance to a village as generally understood, both due to its size and the significant range of shops, services and facilities that it hosts. For the purposes of my assessment, I therefore find that Ashtead is in practice a small town.

12. Purpose (d) which relates to the setting and special character of historic towns is irrelevant given that Ashtead is not a historic town. Insofar as purpose (a) serves to restrict the sprawl of large built-up areas, the PPG indicates that areas considered to make a strong contribution are likely to be free from development. The same applies in relation to purpose (b), which is to prevent neighbouring towns from merging. As established above, the land in question contains some open undeveloped areas, but it is predominantly developed. The Council itself considers that the land at best makes a moderate contribution in respect of purposes (a) and (b), and I see no reason to reach a different view.
13. Establishing whether land is grey belt also requires consideration of whether policies relating to areas or assets in footnote 7 of the Framework would provide a strong reason for refusal. In this case the only category that appears to be potentially relevant are designated heritage assets. This is given that the site lies within the broad setting of Ashtead House, a Grade II listed building, and its western side abuts the boundary of the Conservation Area principally designated around it and its grounds.
14. Within this context the significance of Ashtead House partly resides in its historic status, its C18th design, and its landscaped setting, as is further highlighted by the Conservation Area designation. No harm was identified by the Council in assessing the scheme. Whilst the nearest parts of the site are already developed, Ashtead House itself lies some distance away and is buffered by adjacent vegetation. The site makes no obvious contribution to the significance of either asset. The proposed housing would have a different physical and visual presence to that of the garden centre, but taking into account the above, this would not affect the significance of either asset or the ability to appreciate their significance.
15. Given my findings above, the development would make use of grey belt land, in relation to which the exception set out within paragraph 155 of the Framework is potentially applicable. Whether or not this is the case requires the development to be assessed against and to comply with 4 further criteria.

(c) Paragraph 155

16. In view of my findings in relation to purposes (a), (b) and (d) above; given that the site is not perceived as countryside in relation to purpose (c); and given that purpose (e) is somewhat generic, the development would not fundamentally undermine the purposes, taken together, of the remaining Green Belt within the plan area.
17. The development would also be sustainably located insofar as it abuts the defined settlement, there would be some direct access to public transport, and the centre of Ashtead could be cycled.
18. There is not however a demonstrable unmet need for the proposed housing. Indeed, for the purposes of paragraph 55, footnote 56 of the Framework

defines an 'unmet need' for housing as being the lack of 5-year supply of deliverable housing sites or a score below 75% in the Housing Delivery Test for the previous 3 years, neither of which is currently applicable.

19. The scheme's failure to comply with just one of the criteria within paragraph 155 is sufficient to indicate that the development would be inappropriate in the Green Belt. The further requirement to meet the 3 Golden Rules set out within paragraph 156 of the Framework nonetheless remains applicable given that the scheme constitutes major development involving the provision of housing.

(d) Golden Rules

20. The first of the Golden Rules requires provision of affordable housing which reflects development plan policy, subject to the transitional arrangements set out within paragraph 157 of the Framework. In this case the 40% requirement set out in Policy H3 of the Local Plan is subject to a 15% uplift capped at 50%. The provision of 50% affordable housing is therefore required in this case. As only 4 out of the 23 proposed dwellings would be affordable the 50% requirement would obviously not be met. Nor for that matter would the previous 40% requirement.
21. Even before the advent of the Golden Rules the scheme's failure to provide sufficient on-site affordable housing was a reason for a refusal of planning permission. Whilst this was subject of viability testing by both main parties, in relation to which neither concluded that 40% provision would be viable, their positions differed. In this regard the appellant has undertaken to supplement reduced on-site provision with a possible financial contribution calculated following late-stage viability review.
22. The supporting text of Policy H3 provides limited scope for viability assessment where circumstances justify it. Here the PPG currently states that where development takes place on land situated in the Green Belt and is subject to the Golden Rules, site specific viability assessment should not be undertaken or taken into account for the purpose of reducing developer contributions, including affordable housing. As such, regardless of the respective positions of the parties in relation to viability, each of which is otherwise based on a dated requirement, the scheme's failure to provide 50% affordable housing means that it fails the first of the Golden Rules. In view of the above I find that the scheme also conflicts with Policy H3.
23. In relation to the remaining Rules, conditions have been proposed which would ensure that the scheme delivered necessary improvements to local infrastructure, and provision of/improvements to spaces accessible to the public could potentially be addressed through CIL. The scheme's failure to meet all 3 Golden Rules nonetheless provides a further indication of the inapplicability of the exception set out in paragraph 155. It furthermore weighs heavily against the scheme's broader acceptability. This would have been the case whether or not I had found that any other exception set out within the Framework was applicable.

(e) Conclusion

24. For the reasons outlined above the development would be inappropriate within the Green Belt. It would furthermore fail to meet the Golden Rules set out within the Framework given its failure to make appropriate provision of

affordable housing. Having regard to the latter the scheme would conflict with Policy H3 of the Local Plan as outlined above.

Openness

25. The garden centre consists of a mix of single storey structures which are currently concentrated within the western half of the site. The rest of the site comprises open space, a car park and outside storage/display areas. Whilst hard surfaced, the car park contains no buildings, and its openness evidently fluctuates with opening hours and the number of vehicles parked within it. Likewise, the openness of the outside storage/display areas fluctuate according to the amount of stock within them. Some seasonal variation may be anticipated given the nature of the use.
26. Though the site boundaries have been partly enclosed with leylandii and other vegetation, this does not prevent views through, and views into the site are also possible along the access and from Wilmerhatch Lane. From these vantage points buildings within the site appear recessive in scale, particularly relative to the adjacent open landscape, and the general openness of the eastern half of the site is appreciable. These attributes are also apparent within the site itself, most of which is publicly accessible during opening hours.
27. At application stage, assessment of the scheme's effects on openness principally focused upon comparative 'footprints', in this case meaning the area covered by buildings and hard surfacing. When 3-dimensional attributes were eventually considered, the volumes of buildings which do not exist, and shipping containers whose permanence is open to question were taken into account. Also taken into account were the volume of spaces covered by open-sided canopies, despite the fact that these structures inherently lack the solidity of a building with fully enclosed sides. Though this was explained on the basis that a domestic car port can be enclosed without planning permission, this has little or no direct relevance to the structures in question.
28. Whilst the area of the site covered by development and which might be classified as PDL would clearly fall, the comparative volume of solid built form would rise. The latter would be far more apparent from both outside and inside the site than the reduction in the developed area. This would be emphasised by the greater scale of individual buildings, their broad distribution across the site, including within its eastern half, close spacing, and the greater extent to which space within the site would be otherwise enclosed. The development would host a smaller number of parking spaces which would be spread throughout the site and generate fewer vehicle movements. Vehicle movements would not however be constrained by opening hours, meaning that any related effect on openness would arise throughout the day, every day.
29. My findings above thus indicate that in both spatial and visual terms the scheme would have a greater effect on the openness of the Green Belt than the existing development. Given the existing baseline however the adverse effect of this would be no more than moderate in nature.

Character and appearance

30. The site lies adjacent to an area of suburban development predominantly characterised by large, detached dwellings of varied design, some of which might be described as bulky. These dwellings are generally set within spacious

plots, and overall density is low. Dwellings are either arranged along the road frontage or within cul-de-sacs, some of which feature 'gated' points of entry.

31. The design, scale and bulk of the proposed dwellings would fall within the range of existing variation, and the gated layout would find direct reference locally. The arrangement of semi-detached dwellings within the western half of the site would however be more dense than is typical, and this would be highlighted by the general lack of front gardens. Though the layout would therefore be somewhat less spacious than that of housing within the broader setting, this would not be clearly apparent from outside the site, even though the close spacing of the dwellings would. Nor would it directly undermine any established pattern given that the development would be self-contained and distinctly separated from housing on the opposite side of Pleasure Pit Road. The development could as such be absorbed without harm.
32. For the reasons outlined above the development would not harm the character and appearance of the area. It would not therefore conflict with Policy EN4 of the Local Plan which broadly seeks to secure high quality design.

Other considerations

33. The development would serve a general need for new housing, both market and affordable. However, whilst the Framework seeks to boost the delivery of housing, I have already established above that it would conflict with national policy specifically applicable to the provision of housing within the Green Belt. In this case the social and economic benefits of housing provision cannot therefore be logically held to attract more than limited weight.
34. Though the scheme's use of land which is not PDL is one of the reasons it fails to meet the exception set out in paragraph 154(g) of the Framework, the scheme has been presented as beneficially reducing PDL across the site. Indeed, technically speaking the provision of private gardens within the context of the built-up area of Ashstead would alter the way in which the land was categorised. This would however make little or no difference to the way in which the development was perceived, or provide any other obvious benefit. As a consideration in favour of the development the reduction of PDL therefore attracts no more than negligible weight.
35. Whilst the Framework otherwise provides broad support for the use of PDL, in this case the extent to which PDL would be utilised does not attract weight in its favour. Again, this is given its failure to comply with the exception set out in paragraph 154(g).
36. The extent to which support provided within paragraph 73 of the Framework for the development of windfall sites is applicable is open to question given that the site does not fall within a defined settlement. Even if it did my assessment above indicates that the site cannot be considered 'suitable'. This consideration does not therefore attract weight in favour of the scheme.
37. The other considerations advanced in favour of the scheme therefore at best attract limited weight.

Balance

38. The development would be inappropriate in the Green Belt, causing moderate harm to its openness. Insofar as it is relevant, it would also fail to meet the

Golden Rules. I attach substantial weight to the overall harm that would be caused to the Green Belt. Harm would additionally arise from the scheme's failure to provide sufficient affordable housing. I attach significant weight to this harm.

39. The other considerations advanced in favour of the development at best attract limited weight. These other considerations do not therefore clearly outweigh harm by reason of inappropriateness and any other harm, or therefore demonstrate the existence of the very special circumstances necessary to justify approval. The scheme consequently conflicts with Policy EN1 of the Local Plan as outlined above.

Other matters

40. The site has been identified as hosting a bat roost, albeit the supporting survey evidence is more than 3 years old. It was noted at the Hearing that it would therefore ordinarily be considered out of date, and thus insufficient to support a proper assessment of the effects of the development on bats. Had it been otherwise apparent that the appeal could be allowed this would have been a matter demanding further attention. However, given my findings above this is not a matter which requires further consideration.

Conclusion

41. The appeal scheme conflicts with the development plan, and there are no considerations which alter or outweigh this finding. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR

APPEARANCES

For the Appellant

Elizabeth Alexander	(Planning) Laurence Associates
Chris Devitt	(Legal) CMS LLP
John Dipre	Appellant
Andrew Golland	(Viability) Andrew Golland Associates Limited

For the Local Planning Authority

Aidan Gardner	(Planning Officer) North Somerset Council
Emily Hatch	(Viability) Dixon Searle Partnership
Kirsty Jones	(Housing) North Somerset Council
Marie Killip	(Planning Policy) North Somerset Council
Nick Molyneux	(Viability) Dixon Searle Partnership

Interested parties

Craig Beresford	Ashstead Residents Association
Thomas Blunt	Local resident
John Child	Local resident
Claire Connor	Local resident
John Garret	Local resident
Caroline Pinnock	Local resident

Documents presented at the Hearing

Appeal decision APP/C3620/A/06/2020019

Draft Unilateral Undertaking

Exceptional circumstances assessment

Officer report for application MO/2006/0524PLA