

September 2018

Allowed appeals - focus on Inspectors reasoning around policy and balancing harm & evidence against supply of housing over the last two years. Direct quotes used from Planning Inspectors decision letters.

Land to east of South Cottage Ripley (decision 23 August 2017) (16/P/00608) (26 dwellings)

- “I have already indicated, in terms of balancing the harm to heritage assets against public benefits, that the provision of 26 new residential units half of which would be affordable to be a significant benefit in a district that can only demonstrate at best a 2.36 year HLS and has a dire need for affordable housing. There is no reason why such a benefit should not be regarded as being an important ‘other consideration’. I have also indicated that although Appeal Decision APP/Y3615/W/16/3164814 there is some limited overall harm to heritage assets there is also some benefit to the CA in the removal of the car display and canopy from the High Street frontage.”

120-124 Ash Street, Ash, Surrey (decision date 10 February 2017) (16/P/0454)(9 dwellings)

- “The Council is currently not able to demonstrate a five year supply of housing. Paragraph 49 of the Framework is therefore applicable. Policy H4 of the Guildford Borough Local Plan 2003 is out of date as it relates to the supply of housing. However, it still carries significant weight as the design related criteria within it are broadly consistent with the Framework. I am less persuaded that Policy G5 relates to the supply of housing, though its objectives are also generally consistent with the Framework. I have given moderate weight to the proposed contribution of up to nine houses towards the supply of housing.”
- “There are no policies within the Framework that indicate that the proposed development should be restricted and I have found that no adverse impacts would result that would significantly and demonstrably outweigh the benefits arising from the proposed residential development. I consider the proposal to represent sustainable development as sought by the Framework”

Howard of Effingham School (decision date 21 March 2018) (14/P/02109) (295 dwellings)

- “As set out above, all the main parties agree the proposals are considered to be inappropriate development as defined by paragraph 89 of the Framework. As paragraph 87 of the Framework goes on to make clear ‘inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances’. Paragraph 88 of the same goes on to state that ‘When considering any planning application [decision makers] should ensure that substantial weight is given to any harm to the Green Belt. ‘[V]ery special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations’. The development, defined in those terms, would also conflict with saved policy RE2 of the GBLP. Having established the fact of inappropriateness it is first therefore necessary to consider any other Green Belt harm and then any other harm, before the consideration of any other matters that may outweigh it. These are addressed below.”

- “Nevertheless when the residential development and the replacement school are taken together this would constitute a significant body of new development within the green belt. This would inevitably result in a very significant degree of reduction to its openness, so conflicting with the primary expectations of paragraph 79 of the Framework and in the light of the high sensitivity of the site as identified in the Council’s GBCS, in conflict with saved policy RE2 of the GBLP. Taken together and notwithstanding the mitigating factors in relation to Sites No 1 and No. 2, the proposals would result in a significant reduction in the openness of the Green Belt, resulting in a degree of harm meriting substantial weight when considered in the final Green Belt balance.”
- “But that said, to suggest that the proposals can be seen as ‘effectively negating and almost totally destroying the considered approach adopted by the SENP’ or ‘directly contradicted and overridden’ [137] is to overstate its effect. It is the case that the outcome of the appeal may require a review of spatial planning policies. But these must be regarded as vulnerable to review in light of the current housing land supply position within the borough which at less than three years of supply, would still render proposed housing numbers potentially out of date in relation to the Framework.”
- “There is a demonstrated demographic need for additional places within the joint planning areas of the school and its expansion to meet that need and wider need has received consistent support from the local authority, SCC. This support has been echoed by the Parliamentary Under Secretary for the Schools System. Moreover, Government policy across the JPS and carried through in the policy of the Framework, attaches great importance to ensuring sufficient choice of school places is available and meeting that requirement should be given great weight. JPS also anticipates ‘a presumption in favour of the development of state-funded schools’. Both strands of Government policy have been concurrently applied by the Secretary of State in a subsequent decision. Taken together, in conjunction with the considerable support voiced in support of the proposals by members of the community, and specifically in light of the national policy support for such proposals fulfilling these expectations, this consideration merits very substantial weight.”
- “GBC accept in evidence (281) that significant weight should be afforded to the delivery of 295 homes, of which 61 are now defined as affordable housing, (nearly 20% of the total). The Parish are also agreed that this provision may be viewed as a benefit of the scheme [153]. This is understood through the acknowledgement in the SoCG that, as confirmed by the Council’s own 2016 Annual Monitoring Report²⁸² that the current supply of housing land in the Borough, at the time of the Inquiry, was 2.1 years. The Appellants also point out, unchallenged, to a ‘chronic, serious and persistent under supply of housing in Guildford over a protracted period of time’, with average completions over the 10 year period 2005-2015 having been 261, against a total of 461 derived from the former South East Plan [247]. The SoCG identifies 2.1 years against 693 homes per year, taking account of a buffer of 20% and an accrued deficit. There is a similar degree of underperformance in affordable housing, also identified by the Appellants and again unchallenged by the Council, with BGC delivering an average of 62 affordable homes per annum over a seven year period against an annual requirement of 455 annually [247].”
- “The housing policies of the GBLP were not saved by Government Direction, the plan period having ended in 2006. As the SoCG records, work is ongoing on the PSLP, with the latest iteration being a targeted Regulation 19 consultation proposed for the summer of 2017 with submission intended for December of this year.”

- “Again without challenge, the Appellants state this pre-consultation document ‘relies for much of its housing delivery on a limited number of difficult, long-term strategic sites which themselves were the subject of significant objection when proposed in the previous pre-submission draft’ [250]. Whilst the GBC is right to say in closing that this appeal is not the forum for a ‘pre-run of Local Plan debates’ [43b] (in respect of housing sites or revisions to the Green Belt boundary), it is very clear that GBC is some very considerable way off arriving at a housing number reflecting objectively assessed need, let alone one reflecting a dialogue with adjacent authorities or one determined by a review of the planning constraints within the Borough. It is little surprise therefore that the SoCG affords the PSLP very limited weight at this time. The Parish Council dissent from this view [412] and this is considered, along with a consideration of weight to be attached to the SELP, in the Green Belt Planning balance below.”
- “The net effect of these circumstances is that GBC is only able to demonstrate less than half the annual supply of housing land anticipated as a minimum as Report APP/Y3615/W/16/3151098 required by paragraph 47 of the Framework. Moreover, with the formal adoption of a deliverable annual housing number and a framework for sustained delivery of that number some considerable way off, there is very limited prospect of a recovery of that position in view. As paragraph 47 of the Framework made clear from its publication in 2012, the Government anticipates a significant boost to the supply of housing nationally. That position has not changed. In this context, and the very significant under-delivery of housing in the Borough over an extended period, it is right that the delivery of 295 homes proposed here is given very substantial weight.”
- “Whilst the 20% proportion of affordable housing is below the 35% anticipated by the GBC’s adopted standard, this number has been calibrated and accepted against the viability consideration necessary to allow for the delivery of the school. Notwithstanding this shortfall, and the expectation of policy, the delivery of over 60 units of affordable housing, when considered against past delivery, and in the context of a significant decrease in the affordability of market homes in the area in the last 15 years identified by the Council’s Strategic Housing Market Assessment²⁸³, is also a consideration that merits substantial weight in the Green Belt Planning balance.”
- “The proposals would bring forward 295 units of housing now, of which 20% are to be affordable. In the context of the Council only being able to demonstrate a 2.1 years’ worth of housing land supply, chronic past under-delivery and the prospect of the identification of a credible annual housing number in an adopted development plan some way off, this is an important consideration. Whilst such circumstances suggest that relevant housing policies are not up-to-date, or, in the case of an annual housing number are absent, the engagement of policies of the Framework (and the development plan), specifically in relation to the Green Belt, indicating that development should be restricted, stipulates that the tilted balance facilitated by paragraph 14 of the Framework is not engaged. Be that as it may, the provision of such numbers of houses in these circumstances is a consideration meriting **very substantial weight** in the final balance.”

Guildford Railway Station and car parks (decision 27 February 2018) (14/P/02168)(48 dwellings)

- “The proposals accord with statutory requirements, the policies of the development plan and with the expectations of the Framework. Moreover, a further range of potential planning harms can be fully mitigated through planning obligations properly taken into

account in this decision. As such, a balancing consideration of any benefits the development may bring, as anticipated by the third main issue identified at the outset, does not arise. “However, it should also be remembered that the Framework at paragraph 6 makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 reminds us that there are three dimensions to this development principle: economic, social and environmental. Paragraph 47 of the same is emphatic in its expectation that there will be a significant boost to housing supply across the country.”

- “In addition to avoiding harm to heritage assets and townscape quality and other harms, this proposal offers tangible benefits to the built environment around Guildford Station. It also provides a significant amount of market housing and a lesser number of viability-calibrated affordable units, in addition to an enhanced station facility. These are very significant social benefits. The proposals also bring forward a major development site with a mix of uses that will create employment opportunities for those seeking work. These are clear economic benefits to the borough. This is therefore a form of sustainable development that the Framework supports. And, as paragraph 14 states at its third bullet point, this means approving development proposals that accord with the development plan without delay.”
- “This is however a proposal that has polarised opinion. Some are shocked by it and its anticipated effects. Perhaps unavoidably, they may have the same reaction to this decision. Strong and well-presented arguments have been put before the Inquiry in support of these views and they rightly merit the fullest consideration. However, as my reasoning demonstrates, a different, structured conclusion can be arrived at, aided by the input of key expertise in the field from HE and SERDP, the opinions of both I have given significant weight. For all these reasons therefore, and having carefully considered all the matters raised in evidence and at the Inquiry, I conclude the appeal should be allowed.”

Annfield House, 5 Maori Road (decision date 31 October 2017) (17/P/00245) (7 dwellings)

- “Annfield House is a substantial detached house in large L-shaped gardens, situated in a predominantly residential area of Guildford. There is a detached games room and a separate garage-type building in the rear garden area. Maori Road is a pleasant, tree-lined street, which includes a range of styles and designs of houses, as well as a day nursery and a school. Notwithstanding the Council’s accepted lack of a demonstrated five year housing land supply, the parties agree that the principle of the proposed residential redevelopment is acceptable in the identified urban area.”
- “In light of the above, I consider that the proposal would not constitute overdevelopment or have an unduly cramped or prominent appearance, including from Cross Lanes. I conclude that the proposal would not harm the character and appearance of the area. It would therefore generally accord with saved Policies G5(2) and G5(5) of the Guildford Borough Local Plan 2003 (the LP), which respectively seek to ensure that new buildings respect the scale, height, proportions and materials of the surrounding environment, and that the layout is easily understood by the user and creates identifiable character. It would similarly accord with saved Policy H4 of the LP, which among other things seeks to ensure that housing development is in scale and character with the area. These policies pre-date the National Planning Policy Framework (the Framework) but are generally consistent with it and so I have given them significant weight in this appeal. The proposal would also be generally consistent with the relevant requirements of the Council’s adopted Residential Design Guide Supplementary Planning Guidance 2004 and the good design requirements of the Framework.”

Treetops Boarding Kennels, Peasmarsh (decision date 18 June 2018) (17/P/00801) (39 dwellings)

- “It is concluded that the proposal would have a greater impact on the openness of the green belt than the existing development although the effect on the purpose of including land within it to safeguard against encroachment would be predominately similar to the prevailing situation. Hence the proposal is inappropriate development in the green belt Paragraph 87 of the framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the green belt by reason of its inappropriateness and any other harm is clearly outweighed by other considerations as stated in paragraph 88.”
- “In addition there is a shortfall in the supply of affordable housing, with only 32 having been provided against an identified need for 517, a situation where the appellants characterisation of this being an ‘acute need’ appears justified. The appeal proposals would provide 10 affordable units and 4 shared ownership units, secured by the section 106 agreement and this represents in excess of the 30% sought under policy H11 and just over the 35% referred to in the putative reason for refusal and the Councils statement as being the current requirement. This provision is due substantial weight.”
- “There are considerations of substantial weight and importance in furthering the government’s aim of boosting significantly the supply of housing, as stated at paragraph 47 of the framework. The provision of affordable housing to address an ‘acute need’ weighs heavily too. These considerations, together with the other matters, set out in the previous section of this decision clearly outweigh the harm such that very special circumstances have been shown to exist in order to permit inappropriate development in the Green Belt.”
- “As stated previously, statute and policy require listed buildings to be preserved and the courts have determined that considerable importance and weight should be given to harm found to the significance of listed buildings.....substantial weight is accorded this benefit in the balance”