



West End Action Group & West End Village Society

Objection to application for development – new evidence

Appeal reference number: APP/D3640/W/20/3251262
Application number: 19/0154
Site address: Rosedene Farm and land to the south of Fenns Lane,
West End, Woking, Surrey GU24 9QF
Appellants: Fairfax Acquisitions, the Knowles family, and their
agent Bell Cornwell

2 March 2021

1. Who we are

This is a joint submission by West End Action Group and West End Village Society.

West End Action Group (WEAG), founded 18 years ago, focuses on planning policy, and aims to preserve the rural character of West End and defend the Green Belt area surrounding the village.

West End Village Society (WEVS) is a residents' association founded 48 years ago to enhance and preserve Village amenities, to protect the local environment, maintain the character and identity of the Village and to support local charities.

We bring detailed local knowledge to the issues. Together we represent the great majority of West End residents in believing that this appeal should be dismissed. This is demonstrated, for example, by the result of the WEAG exit poll following the appellants' public consultation on 29 January 2019. 86% opposed the plan to build the 74 dwellings, and only 2% supported it. (Page 10 of WEAG's 2 April 2019 submission has more details).

2. New evidence

We are writing with new evidence, beyond the points we made in our several separate submissions in 2019 objecting to the original planning application 19/0154 – submissions which we understand have already been passed to the Inspectorate. We refer below to the proposed development as the 'Fenns Lane application'.

3. Appellants' arguments

The appellant's arguments deal with the two principal reasons for refusal of planning permission by Surrey Heath Borough Council (SHBC), namely that the development would be inappropriate development within the Green Belt, and that the development would urbanise and harm the rural character of the area. Both of these major conclusions summarise a number of subsidiary arguments. The appellants have responded to these subsidiary arguments in the document Final Statement of Case and the Supplementary Statement of Case provided by their agent Bell Cornwell (we will refer below to these documents as the Final Statement and Supplementary Statements). Our submission will focus on the appellants' responses.

4. Safeguarding the countryside from encroachment

The appellants are unable, in paragraph 5.4 of Final Statement, to offer a convincing argument that building 74 dwellings on open fields does not constitute encroachment on the open countryside. The Supplementary Statement at Paragraph 4.20 refers to the Green Belt Assessment which describes the appeal site as urban fringe in character with a sense of encroachment from the north. That is manifestly not the case. Whilst it is true that there is some low density housing at the northern end of Fenns Lane and along Brentmoor Road these houses are well separated from the appeal site and do not encroach. Neither can the site be considered to be 'urban fringe'. It is on the edge of a distinctive and separate village with a clear boundary – Fenns Lane itself. It is plain that the proposed houses would indeed represent encroachment beyond the settled area.

If the argument were to prevail that development of 'ordinary' transitional land on urban fringes improves the landscape value, it would open the floodgates to erosion of the Green Belt nationally. It would simply establish a new urban fringe with accompanying transitional land slightly further out. And then the same again. And so on. The fallacy is obvious.

5. Previously developed land (PDL)

The Final Statement claims in paragraph 5.7 that the application site is predominantly previously developed land (PDL). However the Supplementary Statement of Case moderates this by excluding much of the paddock area of the site as PDL. We are pleased to see this modified approach, because in section 3 of the WEAG submission dated 2 April 2019 regarding application 19/0154 we argued that only a small proportion of the site qualifies as previously developed land, and that the paddocks do not qualify. Those arguments are not rehearsed here, other than to state that the Inspector in the very similar Saltburn case (APP/V0728/W/18/3207383) declared that, although the paddocks are used in association with the riding school, "they do not outweigh the distinctly separate nature of the paddocks... As a matter of fact and degree, I conclude that the two paddocks are not within the curtilage of the buildings and are therefore not PDL."

Even if it was considered that that the site is largely previously developed land (which we do not accept), it does not mean that development would be appropriate in the face of other, more important, objections. While the National Planning Policy Framework (NPPF) acknowledges in paragraph 145g) that one exception to not building in the Green Belt could be “the partial or complete redevelopment of previously developed land”, it adds the essential requirement that it “would not have a greater impact on the openness of the Green Belt than the existing development, or would not cause substantial harm to the openness of the Green Belt”.

The Fenns Lane application fails on both counts. It would indeed have a greater impact on the openness of the Green Belt than the existing situation – a far greater impact. And it would indeed cause substantial harm to the openness of the Green Belt - as section 6 below demonstrates.

A recent appeal decision is a relevant precedent because the situation was a very close parallel to our Fenns Lane situation. It is the Appeal Decision in APP/H1515/W/19/3234463, concerning Green Belt land that was part vegetable plot and commercial woodyard, at Chelmsford Road, Blackmore, Essex CM4 0SF. The decision date was very recent, 2 April 2020. We will refer to this below as the Blackmore decision.

Paragraph 5 of the Inspector’s report on the Blackmore decision stated that as the site was in the Green Belt “even if the appeal site constitutes brownfield land, this would not change the designation of the land as Green Belt. Consequently, the proposed development must be assessed within the context of this designation... The essential characteristics of Green Belts are their openness and their permanence.” It was on the latter grounds that the appeal was dismissed.

6. Openness of the Green Belt at Fenns Lane

Paragraph 5.7 of the Final Statement claims that the range of equestrian uses of the land “have a considerable visual impact and detract from the openness of the Green Belt”.

This strikes us as absurd. It is obvious during any stroll along Fenns Lane that the green fields of the application site are open countryside, and moreover they provide clear views to the extensive open fields and stands of trees beyond, on the far side of the Trulley Brook.

The photographs on the next page, taken in February 2021, illustrate the point.



These three photographs illustrate the rural open character of the views from Fenns Lane across the proposed site. The trees beyond the site also form an essential part of the visual character.

Paragraphs 5.24-25 of the Final Statement describe the existing structures on the site, but fail to convey the very open character of the site. Moreover dismissing land as “paddocks/horsiculture” overlooks the fact that paddocks are still green fields, which to local residents and anyone passing along the lane are very attractive, and in addition their openness makes available the view beyond to further fields and trees – views which the proposed housing would completely extinguish.

The Blackmore decision, dealing with a very similar situation, stated in paragraph 11 that “Since the site is largely undeveloped and the existing structures are located near its periphery, the land is largely open with some trees and vegetation near the boundaries that offer glimpses to the open countryside beyond and allow some visibility into the site from the road. Given the quantity, height and mass of the proposed dwellings, they would significantly diminish the visual openness of the Green Belt and would have a much greater impact on the openness of the Green Belt than the existing development, contrary to the aims of the Green Belt policy.”

“Consequently” concluded Paragraph 14, “the proposal would have an adverse effect on the openness of the Green Belt and would therefore be inappropriate development in the Green Belt in terms of the Framework, specifically paragraph 145g), and none of the other exception criteria apply.”

Paragraph 10 declared “Openness in terms of the Green Belt has a spatial as well as visual aspect”. In this regard paragraph 35 of the Blackmore decision commented “The proposal for nine dwellings” (let alone 74 dwellings) “would not only involve the erection of houses, but also would include significant areas of new road, paved driveways and domestic gardens that would substantially alter the landscape character of the area... and would have a detrimental effect on the spacious rural character and appearance of the area.” Paragraph 38 added that “The scheme would have an urbanising effect on the site” – and of course the 74 dwellings proposed for Fenns Lane would have even more of an urbanising effect.

The appellants amplify their case in the Landscape and Visual Impacts Report undertaken by Fabrik as part of the Supplementary Statement. It claims that there are no distant vistas which can be seen from Fenns Lane - but that is incorrect as the next photograph shows.

Based on their (erroneous) claim, they incorrectly argue that there would be little visual detriment consequent upon development. The report further concludes that the land is ‘ordinary’ transitional urban fringe land whose value ‘is off the bottom of the landscape scale’ (Para.6.28g). We consider that this exaggerated description is an absurd portrayal of the appearance of green fields used for grazing horses. Moreover this land is highly valued by the village residents who enjoy the open views across the paddocks to the woodland and open fields beyond, and the sense of space.



Trulley Brook runs unseen across the photograph, by the first line of vegetation. Beyond that, outside the proposed site, open fields and attractive deciduous woodland can be seen from the road. The ability to see the trees and landscape beyond the site is vital to the rural character of this western edge of West End.

The assessments of landscape and visual impacts tabulated in Paragraphs 7.02 and 7.06 of the Landscape and Visual Impacts Report are, frankly, risible. They are simply divorced from reality. The openness of this western boundary to West End is key to its character as a rural village. Its loss would be highly detrimental.

Although the planning application is only for outline planning permission, and the diagrams of the layout of the site are only indicative, the plans do show a significant proportion of terraced housing and parking courts. It may be assumed that terraces would feature in final designs too, to accommodate the proposed number of dwellings on the land in question. This would accentuate the visual impression of high density housing. The solidity and mass of the built forms of the terraces would contrast sharply with the individualistic dwellings facing Fenns Lane from the other side of the road, rendering impractical any satisfactory integration of the new buildings with the existing context.

Openness includes the impression gained from within the site, not only from outside the site. Anyone on the site today would see the open green paddocks, but if the proposed development went ahead it would be completely different – a confined context characterised by dense housing and hard surfaces. Openness as seen from within the site would be destroyed. This would be relevant not only to people living in the proposed houses, but also to any resident of West End, for the public would have access to the interior of the site, and therefore would be affected by the destruction of openness from within the site.



Part of Rosedene Farm as seen from well-used public footpath 124, February 2021. Under the proposal, this scene would be dominated by the substantial built form of housing.

The appellants maintain that a section of the site is screened from view by vegetation lining Fenns Lane. Insofar as this may be true in the summer for certain parts of the site boundary, in the winter this vegetation becomes less of a visual barrier, leaving gaps through which fields may be glimpsed and an impression of open space sustained.

7. Unkempt character of the site

Paragraph 2.29 of the Final Statement and at various points in the Supplementary Case the “generally unkempt character” of the site is made much of. This only applies to a limited proportion of the site, and the solution to the unkempt character is not to build 74 houses but simply to clear away the tips, vehicles and other materials which create the unkemptness.

The appellants’ submissions are liberally illustrated by photographs of buses, lorries, cars, caravans and so on being stored or moved onto the land, in order to maximise the impression of ‘unkempt appearance’. In fact some of the usage of the site which gives rise to its unkempt appearance was in breach of regulations, resulting in enforcement action being taken, including the removal of the buses. Consequently some of these photographs are out of date and are misleading.

It is worth noting that ‘neatness and tidiness’ are not characteristics of the countryside in general. A degree of agricultural equipment, fencing and storage of materials is to be expected and could be considered to be part of the rural charm.

8. Provision of new open space

Paragraphs 5.10-11 of the Final Statement refer to the provision of a small area of public open space. Whilst not denying that additional public recreation areas would be a benefit, the benefit would be very small in relation to the harm caused by the application. Moreover there is no shortage of public open space in the immediate

area. The very extensive Brentmoor Heath is within a few hundred yards, and there are public footpaths through the fields beyond the Trulley Brook. In addition there is a large SANG (Suitable Alternative Natural Greenspace) elsewhere in West End, on the former golf course at Blackstroud Lane East, where West Enders may walk freely. It is our view that very little weight indeed should be given to the public open space on the proposed site.

Similarly the ecological enhancements described in paragraphs 5.12-21 are not unwelcome but should carry little weight in comparison with the planning policy objections.

9. Five-year supply of land for housing, and delayed Local Plan

A) The numbers

Paragraph 5.8 of the Final Statement refers to the Council's ability to show a five-year supply of land for housing. The latest annual statement of housing land supply was published in August 2020. It showed provision of land for slightly under five years: 1692 houses, a modest shortage of 51 dwellings compared with the target of 1743.

Part of the context in which we view this shortfall is that there will, during the next five years, be increased capacity for new dwellings in Camberley town centre, and to a lesser extent in smaller local shopping areas. The reason is the long-term trends towards online shopping and the consequent reduction in demand for retail space, and also significant working from home which will mean a reduced office space requirement – and these are trends which are being dramatically accelerated by Covid-19.

The Council's own figures in the August 2020 report included an estimate of 48 windfall dwellings during the five-year period. We believe that this will prove to be a very substantial underestimate because of the expected availability of redundant retail and office space, which could be repurposed for dwellings. The rate at which retail shops are closing down permanently, with the brands either ceasing altogether or moving entirely online, is remarkable. We anticipate that within the next five years the quantity of redundant retail and office space that will become available would easily support a three-figure number of dwellings. Neither the Council nor ourselves can put a precise figure on it, but an indicator is that already the former BHS office building in the town centre has been converted to 116 apartments. We think this factor is worth bearing in mind when considering the Borough's current housing land supply situation.

It is also to be noted that Surrey Heath has successfully passed the important Housing Delivery Test (HDT). In 2018 the Borough exceeded the housing delivery requirement by 27%, and in 2019 by 21%.

B) Green Belt considerations override land supply numbers: NPPF 11 d)

Even if it were established that there was a shortage of land for housing, this in itself is not sufficient ground for approval of a development that is otherwise

inappropriate. That is because the Framework's paragraph 11d) sets out the requirement as follows:

"Plans and decisions should apply a presumption in favour of sustainable development where (d) there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
- or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The Fenns Lane application fails on both grounds i and ii. Green Belt policies do indeed 'provide a clear reason for refusing the development proposed', and also the adverse impacts 'would significantly and demonstrably outweigh the benefits'.

In a closely parallel situation, the Blackmore decision stated in paragraph 52 that "the Green Belt policies in the Framework provide a clear reason for refusing the development proposed. Therefore even if the Council were not able to demonstrate a 5 year supply of deliverable housing sites and its policies for the supply of housing were out-of-date, the presumption in favour of granting planning permission in those circumstances found in paragraph 11d) of the Framework does not apply".

Another appeal concerning a planning proposal, this time in Surrey Heath at Castle Grove, Chobham (APP/D3640/W/19/3235041), published in January 2020, reached the same conclusion: "Even in the event of a shortfall [of land for housing], the tilted balance set out in paragraph 11 of the Framework would not have been applicable within the current decision making context [i.e. that it was already established that the development was inappropriate development in the Green Belt]. Moreover, a modest shortfall of the extent claimed would not in itself have added weight sufficient to justify the harm that the scheme would cause to the Green Belt."

A case decided by the Court of Appeal as recently as February 2021 is highly relevant. This is *Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 104, concerning two planning applications in Corby in Northants and Uttlesford in Essex. It was determined by the Court that, although neither Corby Borough Council nor Uttlesford District Council could demonstrate the required five-year supply of deliverable housing sites, the 'presumption in favour of sustainable development' did not mean that the decision-making Councils were required to disregard policies in the Local Plans, or other NPPF policies such as the Green Belt regulations. In effect the Court's ruling supported the decisions of the two Planning Inspectors who had dismissed appeals against the two Council's refusals of planning permission.

C) Delay in revising the Local Plan

Both the Blackmore case interpreting NPPF paragraph 11d) and the Court of Appeal ruling refute the Fenns Lane appellants' additional claim that the delay in completing the Council's revised Local Plan means that it is out of date, therefore inapplicable, and allows approval of their application.

Clearly, then, the Borough's existing Core Strategy is still highly relevant. In particular we have in mind Core Policy 1 (CP1), part of which states "New development will come forward largely through redevelopment of previously developed land in the western part of the Borough" and "The smaller villages of Bisley, West End and Windlesham [in the east]... have limited capacity to accommodate development and this will be achieved primarily through existing sites".

In the case of West End the existing sites were 'reserve land' held in reserve for future housing development, and after the Core Strategy was published this 'reserve land' has been brought forward for development. New housing estates at Kings Road, Beldam Bridge Road and Malthouse Farm have now filled all the reserve land.

The Fenns Lane application is the first major proposal for building on Green Belt land surrounding West End. We regard it as vital that the Green Belt be protected by dismissing the Fenns Lane appeal. Otherwise it will set the precedent for Green Belt everywhere in the Borough and beyond to be developed, leading to the coalescence of many settlements.

It may be noted that the intention in the draft revised Local Plan is to continue the existing Core Strategy policy of focusing new housing to the west of the Borough, not in the eastern part of the Borough where West End lies.

10. Flooding

The appellants' Flood Risk Assessment (Supplementary Case Paragraph 3.10) is flawed. It appears to reflect a consideration of the designated Flood Risk Zones 1, 2 and 3 shown on the Environment Agency's map of the area without an actual visit to the site following heavy rain. There is regular flooding of the area. Fenns Lane becomes flooded after heavy rain and the proposed development site becomes waterlogged in places. Below are photographs which illustrate the point. They were taken in February 2021.



"What canal is that?" one resident asked on first seeing this photograph. It is Fenns Lane on 3 February 2021 after heavy rain, looking north.



Another section of Fenns Lane, looking south on 3 February 2021



A third section of Fenns Lane in February 2021

The reason for regular flooding is that rainwater flows down from the high ground (Brentmoor Heath and especially Sandpit Hill) to the north and north-east of Fenns Lane, then through the 'nursery/flowers' estate via its ditches and culverts to the catchment pond at Erica Close/Fuscia Way, and thence – during heavy rain – it overflows the catchment pond into Fenns Lane. Eventually the water sinks down into the absorbent ground of the application site, because by the time the excess water floods Fenns Lane the drainage ditches through the site towards Trulley Brook are already full. The application site acts as a soakaway.

Consequently if 74 houses are built on the proposed site, the floodwater during heavy rain will be held up for longer, unable to soak away, and will become even deeper, and also a number of the new houses on the site may become flooded.

11. Unsuitability of Fenns Lane as the access road for a substantial housing development

An objection which the Final Statement failed to address is the unsuitability of Fenns Lane as the access road for such a development. It is a single carriageway narrow road in which, for much of its length, two vehicles are unable to pass each other. In addition it has a number of sharp bends which obscure drivers' visibility of oncoming traffic.

The Fenns Lane development would generate a high volume of traffic from its 74 dwellings (we discussed the volume in our original submissions dated 2 April 2019 and 1 December 2019, and believe the appellants seriously underestimated the volumes). Traffic volumes would be heightened by the location of the Fenns Lane site, with no shops or other services close by, and with West End providing only modest services, thus expanding car use from the site. Yet Fenns Lane largely lacks street lights and pavements, meaning that walking or cycling even to the local services could be hazardous and problematic, further expanding car use down this inadequate lane. The unsuitability of Fenns Lane for the predictable volumes of traffic means that the proposed development would have an unacceptable impact on highway safety.

The same situation applied in the Blackmore case, where the Inspector concluded in paragraph 15 that "future occupiers of the proposal would be dependent on the private vehicle for daily requirements... the proposal would give rise to negative environmental impacts" and in paragraph 17 that "Consequently the proposed development would not provide a suitable location for housing, with particular regard for accessibility of services and facilities. Therefore it would conflict with the Framework in this particular respect."

The proposed development at Fenns Lane would also conflict with Policy CP11 of the Council's Core Strategy, which seeks to ensure developments reduce the need to travel by private car, and to promote sustainable modes of transport. Yet this development would require extensive use of private cars, as discussed above. Moreover Policy CP2(i) of the Core Strategy requires developments to "contribute to a reduction in the Borough's own carbon dioxide emissions and thus to the targets for reducing carbon dioxide emissions in the South East". Clearly this development would increase, not decrease, carbon dioxide emissions, and thus would fail to meet the policy requirement.

12. The boundary of the Green Belt

The appellants argue that a benefit of their proposal is that it would provide a defensible boundary to the Green Belt at this part of West End. Many residents of the village view this suggestion with some hilarity. We already have a clear and defensible physical boundary: Fenns Lane itself.

13. Thames Basin Heaths Special Protection Area (SPA)

The development would have a detrimental effect on the Thames Basin Heaths Special Protection Area (SPA). There would certainly be an increase in recreational use of the SPA, which at Brentmoor Heath is only a matter of hundreds of yards away. Consequently there would be degradation of the heathland and woodland, and disturbance of the three species of bird this supports, and for which the SPA was designated. The development would conflict with the conservation objectives of the SPA.

The development is so close to the boundary of the SPA that the 400 metre buffer zone actually intrudes into the application site. This is a primary reason why the appellants have been obliged to designate part of the site as a public open space – because it cannot be built upon under any circumstances. Yet the public open space on the site is far too small to provide an effective alternative to Brentmoor Heath for dog-walking and other recreational use.

14. Other issues

Our submissions to Surrey Heath Borough Council in response to planning application 19/0154 discussed a number of other issues. We do not debate them further here since we have no further comments to make on them, but we stand by them.

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