

# ATLAS

PLANNING GROUP

## PLANNING STATEMENT

WING 2 WARREN WOOD, KENTISH LANE, BROOKMANS PARK, AL9 6JQ

AUGUST 2023

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**Appendix A** – Appeal Decision 3183471

**Appendix B** – Appeal Decision 3248337

## INTRODUCTION

- 1.1 Atlas Planning Group have been instructed to support an application seeking householder planning permission for the demolition of existing outbuildings (including detached garage) and a front extension to the existing dwelling, the erection of a detached granny annexe and detached single garage to serve the host property along with alterations to the fenestration of the existing dwelling, hard and soft landscaping and associated works at Wing 2, Warren Wood Park.
- 1.2 The application site comprises the residential curtilage of Wing 2 Warren Wood, a property within a cluster of dwellings found on the eastern side of Kentish Lane within the countryside to the northeast of the settlement of Brookmans Park.
- 1.3 The application site is bounded by residential properties within Warren Wood Park to the north and south, by open countryside to the east and by Kentish Road to the west.



Figure 1 – Aerial View of the Application Site

## PLANNING HISTORY

- 2.1 There are no applications relating to the application site made within the last decade which are relevant to the current application.
- 2.2 However, a pre-application advice request was submitted to the Council in mid-2022, which sought the Council's advice on a proposal for the *'Creation of a two bedroom granny annexe with associated parking within a private garden space to the front of the main dwelling'*.
- 2.3 The Council's pre-application letter (6/2022/1523/PA) states:
- "The proposed granny annexe would be physically detached from the host property and would include two bedrooms, open plan kitchen/living/dining area, shower/wc, separate access, garden area and two car parking spaces. As such, it is considered that the proposal does not appear to have a functional dependency on the main dwelling and could potentially be capable of being used as an entirely separate self-contained residential unit. As such, the proposal would be considered against the policy for new dwellings in the Green Belt."*
- 2.4 Following receipt of the pre-app advice (and given that it is not currently and never was the applicants' intention to create a self-contained residential unit) the applicants seek to ensure that the LPA can retain control over the use of the proposed annexe. A planning condition suggested at paragraph 3.9 of this Statement would ensure that the annexe can only lawfully be inhabited in connection to the host dwelling and cannot be used as a standalone dwelling.
- 2.5 As such, there is no longer a need to assess the proposed development against the policy concerning new dwellings within the Green Belt. When assessed the relevant policies of the development plan and the NPPF the planning balance lies in favour of the proposed development so successfully overcomes the highlighted concern from the pre-application.

## THE PROPOSAL

- 3.1 This application seeks householder planning permission for the demolition of existing outbuildings (including detached garage) and a front extension to the existing dwelling, the erection of a detached granny annexe and detached single garage to serve the host property along with alterations to the fenestration of the existing dwelling, hard and soft landscaping and associated works.
- 3.2 The proposed annexe is for use by the applicants' father, who is registered disabled. He has COPD, emphysema, type 2 diabetes and heart issues following a heart attack. He can no longer climb stairs and requires a ground floor bedroom. It is expected with living facilities close-by the applicants' father will spend much of his time at the host dwelling, eating meals and socialising with his family. Provision within the annexe for a carer's bedroom is a sensible futureproofing precaution, although most of the care provided will be done so by the applicants.
- 3.3 Planning case law indicates that an annexe should have either a physical or functional tie with the host dwelling. A functional tie may be in the form of an elderly relative residing in the annexe requiring care from the occupants of the host dwelling. In this instance, the proposed annex is needed for the use of an elderly relative that will require care. This is clearly a functional tie.
- 3.4 The proposed annexe would be sited within an existing part of the front garden for the host property, in a relatively small area enclosed by an existing hedge.
- 3.5 Internally, the annexe would provide a single entrance hallway, combined kitchen/living room, wet room, bedroom and linked carer's bedroom. Externally, the new annexe would be a visually contained small bungalow.
- 3.6 The application also seeks consent for various alterations to the host property, designed to create a clear and obvious main entrance to the house and maximise views from the house to the garden.
- 3.7 Access to the application site and proposed annexe will continue to be provided from the existing access point onto Kentish Lane.
- 3.8 The new annexe would share a garden with the host property and it is expected that the applicants' father will spend much of his time with family in the host dwelling, with the annexe allowing for an appropriate level of independence with assistance close by.

3.9 The applicants acknowledge that the LPA would be resistant to the creation of an independent residential dwelling at the site (as this would be contrary to local planning policy) and wish to explicitly confirm that this is not what is being sought. The applicants are very happy for the Council to apply a condition restricting the occupation of the annexe and preventing it from being sold independently from the host dwelling, as part of any grant of permission. A suggested wording is as below:

*“The annexe hereby permitted shall remain ancillary to the residential dwelling known as Wing 2 Warren Wood and shall not be sold off as an independent unit of residential accommodation.”*



Figure 2 – Proposed Site Layout

## PLANNING CONSIDERATIONS

- 4.1 Welwyn Hatfield Borough Council's Adopted District Plan is the Council's primary Development Plan Document, and the starting point for determining planning decisions within the Borough, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 4.2 The National Planning Policy Framework (NPPF) provides a national tier of policy and decision-making guidance for the planning system and is a material consideration for all planning decisions.
- 4.3 The policies and guidance contained within the statutory DPDs and all other relevant material considerations have been consulted to ensure that the proposed dwellings are an appropriate form of development for the site.

## PRINCIPLE OF DEVELOPMENT

- 4.4 Welwyn's adopted Policy SD1 states:

*"Development proposals will be permitted where it can be demonstrated that the principles of sustainable development are satisfied and that they accord with the objectives and policies of this plan."*

- 4.5 The Council's Sustainability Checklist as found within the Design Guidance SPD has been filled out and submitted alongside this application. The answers provided demonstrate that the development complies with the principles of sustainable development and that it accords with the objectives and policies of the development plan.
- 4.6 There are no policies within the development plan that specifically relate to the provision of annexe accommodation. In this case, the presumption in favour of sustainable development set out at paragraph 11 of the NPPF is relevant:

*"Plans and decisions should apply a presumption in favour of sustainable development. For plan-making this means that:*

- a) *all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment;*

*mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;*

- b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; 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.*

*For decision-taking this means:*

- c) approving development proposals that accord with an up-to-date development plan without delay;*  
*or*  
*d) where 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.”*

4.7 As demonstrated within this Statement, the application is compliant with the policies of the development plan which remain relevant to the current proposals. Furthermore, there are no policies within the NPPF which protect areas or assets of importance and provide a clear reason for refusing the development, and no adverse impacts of allowing the development would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. Therefore, whether determining the application under either (c) or (d) of NPPF 11 both branches support the current proposals.

4.8 The development is therefore considered acceptable in principle.



4.9 Policies GPSB1 and RA3 both require that new development is appropriate within the Green Belt. These policies reflect the general presumption against inappropriate (and therefore harmful) development within the Green Belt.

4.10 Policy GPSB1 states:

*“The Green Belt will be maintained in Welwyn Hatfield as defined on the Proposals Map. The towns and specified settlements listed in Policy GBSP2 are excluded from the Green Belt. The precise boundaries of the Green Belt around these towns and settlements are defined on the Proposals Map.”*

4.11 Policy RA3 states:

*“Permission for extensions to existing dwellings within the Green Belt will be allowed only where all the following criteria are met:*

- i. The proposal would not individually or when considered with existing or approved extensions to the original dwelling, result in a disproportionate increase in the size of the dwelling;*
- ii. It would not have an adverse visual impact (in terms of its prominence, size, bulk and design) on the character, appearance and pattern of development of the surrounding countryside.*

*This policy also applies to those outbuildings for which planning permission is required.”*

4.12 The proposal would result in the creation of a detached annexe within the residential curtilage of the host property, which lies within the Green Belt. However, it is clear from case law, planning precedent and the Council’s policy wording that outbuildings for an existing dwelling can be regarded as extensions for the purposes of Green Belt policies. Indeed, the Inspector of appeal 3183471 (Appendix A) stated:

*“This case therefore centres on whether the proposed garage should be considered as a new building in the Green Belt, in which case it would be inappropriate in accordance with paragraph 89 of the Framework, or whether it should be regarded as an extension to the existing dwelling, where it may fall within the exceptions at bullet point 3 of paragraph 89. The judgment in Sevenoaks District Council v SSE and Dawes [1997] is helpful here. That case relates to a proposed extension to a garage at a house in the Green Belt. The Court found that the existing detached garage was a normal domestic*

*adjunct that could be regarded as part of the dwelling. The mere fact of physical separation from the main house did not prevent the garage being part of the dwelling. Thus in that case the proposed extension to the garage could be regarded as an extension to the house.”*

- 4.13 Policy RA3 is therefore most relevant for the determination of the application. In order to answer criterion (i), it must first be established what exactly a ‘disproportionate’ increase may be. Whilst the individual context must be taken into account on every occasion, it is worthwhile noting what Inspectors at appeal considering the same issue have concluded on this matter.
- 4.14 In the case of appeal 3248337 (Appendix B) the Inspector agreed with Mole Valley District Council’s assertion that a 42% increase in volume within the Green Belt was not a disproportionate addition to the existing dwelling. Similarly, in the case of the previously quoted appeal 3183471, the proposed detached garage equated to an increase of 37.5% above the existing dwelling.
- 4.15 The current proposal would result in an increase in volume from 1,546.5m<sup>3</sup> to 1,741m<sup>3</sup>, which equates to an approximate 12% increase. Given the findings of the previous Inspectors highlighted above, the proposed development is not considered to be a disproportionate enlargement. The proposal therefore complies with RA3 (i).
- 4.16 As discussed in the next section of this Statement, the development would also have an acceptable impact upon the locality in terms of its visual impact, its character and the pattern of development within the surrounding countryside. Therefore, the proposal also complies with RA3 (ii).
- 4.17 The development therefore accords with GPSB1 and RA3 as a whole and as such is appropriate development within the Green Belt.

## IMPACT ON THE CHARACTER AND APPEARANCE OF THE AREA

4.18 Policies D1 and D2 require that new development is of a high design quality, responding positively to local character and contributing to the distinctiveness of the area.

4.19 Policy D1 states:

*“The Council will require the standard of design in all new development to be of a high quality. The design of new development should incorporate the design principles and policies in the Plan and the guidance contained in the Supplementary Design Guidance.”*

4.20 Policy D2 states:

*“The Council will require all new development to respect and relate to the character and context of the area in which it is proposed. Development proposals should as a minimum maintain, and where possible, should enhance or improve the character of the existing area.”*

4.21 The proposed annexe and garage are of a high design quality and would complement the existing built form in the locality (including the host dwelling), by being subservient to this development and utilising a material palette which references the materiality of existing properties in the area.



Figure 3 – Proposed Granny Annexe

4.22 Equally so, the annexe would not be out of character within the local setting, which features several residential dwellings and their respective outbuildings. The annexe would be a coherent addition to the existing built form.

4.23 The proposed alterations to the existing dwelling are also considered to result in an enhancement to the host dwelling, removing an existing unsightly front extension and regularising the fenestration arrangement on the principal elevation, and again regularising the fenestration arrangement at the rear of the property. These changes will result in the property appearing as a more cohesive piece of architecture, enhancing the immediate setting.



Figure 4 – Proposed Alterations to the Host Dwelling

4.24 As such, the proposals accord with the aims of the Council's adopted design policies.

## RESIDENTIAL AMENITY

- 4.25 The new annexe will be provided with a suitable area of internal space, which is considered to allow for a high standard of amenity. The internal accommodation will be appropriately accessible for someone of elderly age and natural light will be available in every habitable room.
- 4.26 The new annexe and garage are positioned at appropriate distances away from neighbouring properties and each other, which negates the possibility of adverse overshadowing, and are oriented to prevent unneighbourly overlooking. Due to the separation from the closest existing neighbour, it is considered that no issues of unneighbourly overlooking, overshadowing or visual impact upon existing properties will occur.
- 4.27 The proposed annexe would not be subject to adverse pollution impacts (noise, smell or other), owing to their separation from other properties and surrounding land uses.
- 4.28 The proposed development is therefore considered to provide the applicants' father with a good standard of amenity whilst preserving the existing quality for adjacent residents.

## HIGHWAY IMPACTS

- 4.29 An existing vehicular access to the site will be used in association with the proposed development, continuing to allow vehicles to enter and exit the site. The access onto Kentish Lane provides a satisfactory level of visibility in both directions, which allows for vehicles to safely access and egress the site.
- 4.30 It should be noted that the proposed development would not generate any significant level of additional vehicular movements given the fact that the annexe will remain ancillary to the host dwelling and will not provide any standalone parking for the applicants' father (simply as this is not required). The only reasonable forecast increase is for a carer, but the proposed parking arrangements will provide adequate off-street parking for the applicants in the host dwelling and a carer.
- 4.31 The development is therefore considered acceptable in this regard.

## CONCLUSIONS

- 5.1 The current application seeks householder planning permission for the demolition of existing outbuildings (including detached garage) and a front extension to the existing dwelling, the erection of a detached granny annexe and detached single garage to serve the host property along with alterations to the fenestration of the existing dwelling, hard and soft landscaping and associated works at Wing 2, Warren Wood Park.
- 5.2 The proposal ensures that:
- ✓ It accords with local and national planning policies;
  - ✓ It constitutes appropriate development within the Green Belt
  - ✓ It will respect the character and appearance of the area;
  - ✓ It will respect the amenity of neighbouring occupiers;
  - ✓ It will not result in any adverse highway impacts.
- 5.3 For these reasons, we commend the proposals to you and request that the application is approved without delay in accordance with Paragraph 11 of the NPPF.

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## Appeal Decision

Site visit made on 21 November 2017

by **C J Ball** DArch DCons RIBA IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 December 2017

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### Appeal Ref: APP/N0410/D/17/3183471

#### 6 Wood Lane, Iver SL0 0LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Mark Seagrove against the decision of South Bucks District Council.
  - The application Ref 17/01020/FUL dated 5 June 2017, was refused by notice dated 31 July 2017.
  - The development proposed is a detached garage.
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#### Decision

1. The appeal is allowed and planning permission is granted for a detached garage at Wood Lane, Iver SL0 0LL in accordance with the terms of the application Ref 17/01020/FUL, dated 5 June 2017, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan; existing and proposed floor plans and elevations IRW/2017/001/A.
  - 3) The external surfaces of the development hereby permitted shall be constructed to match those of the existing dwelling on the site.
  - 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 6 Wood Lane, Iver SL0 0LL.

#### Main issue

2. Whether the proposal amounts to inappropriate development in the Green Belt.

#### Reasons

3. The site for the proposed garage is the forecourt of a detached house within the established built-up area of Iver, designated a Green Belt Settlement in the South Bucks Local Plan 1999. Local Plan (LP) policies relevant to this case include policies GB1 and GB10. Policy GB10 *Extensions to Dwellings in the Green Belt* normally permits small-scale ancillary buildings within the curtilages of dwellings in the Green Belt. The Council considers policy GB10 to be not entirely consistent with national Green Belt policy as set out in the National Planning Policy Framework 2012 so that it carries less weight. The Framework is silent on ancillary buildings but excludes new buildings as inappropriate, with a range of exceptions including proportionate extensions.



4. This case therefore centres on whether the proposed garage should be considered as a new building in the Green Belt, in which case it would be inappropriate in accordance with paragraph 89 of the Framework, or whether it should be regarded as an extension to the existing dwelling, where it may fall within the exceptions at bullet point 3 of paragraph 89. The judgment in *Sevenoaks District Council v SSE and Dawes [1997]* is helpful here. That case relates to a proposed extension to a garage at a house in the Green Belt. The Court found that the existing detached garage was a normal domestic adjunct that could be regarded as part of the dwelling. The mere fact of physical separation from the main house did not prevent the garage being part of the dwelling. Thus in that case the proposed extension to the garage could be regarded as an extension to the house.
5. Logically therefore a proposed new outbuilding could potentially be regarded as an extension to a dwelling. Much depends on individual circumstances. In this case, the garage in the forecourt would clearly be within the curtilage of the house. It would occupy an area of hardstanding currently used for parking. It would be reasonably close to the house and of a small scale. Screened by hedges and trees, with access from a short private lane, the proposed garage would not have a detrimental effect on the open and undeveloped character of the Green Belt or be intrusive in the landscape.
6. I concur with the Council's view that the proposed garage would not detract from the character and appearance of the house or the surrounding area, would have no impact on neighbour amenity, would have no implications for access or highway safety and would have no tree or landscape implications. I saw a similar garage in a similar position in a neighbouring plot which illustrates the benign impact of an appropriately designed structure.
7. I consider that the proposed detached garage complies with LP policies GB1 and GB10 relating to ancillary buildings. Moreover, in the particular circumstances of this case, I find that the proposal should be regarded as a proportionate extension to the house, thus falling within the exceptions to Green Belt policy set out at bullet point 3 of paragraph 89 of the Framework. Policy GB10 is not inconsistent with this approach and I have given it full weight as a relevant development plan policy. I do not consider that my conclusions in this case would represent an inevitable precedent for further applications, since each case would need to be considered on its own individual particular circumstances. Overall I find that the proposal does not amount to inappropriate development in the Green Belt. Since there are no other objections, it should therefore be approved and planning permission granted subject to appropriate conditions.
8. I have had regard to the design of the garage and it is important that it is built as shown in the plans, in the same materials as the house, so that it harmonises with its surroundings. The ancillary nature of the building is a key consideration so it is also necessary to ensure that the use of the building remains ancillary to the use of the house. I have imposed the conditions necessary to ensure this. With these in place, for the reasons given above, I conclude that the appeal should be allowed.

*Colin Ball*

Inspector

**B**



## Appeal Decision

Site visit made on 5 January 2021

**by R J Jackson BA MPhil DMS MRTPI MCMi**

**an Inspector appointed by the Secretary of State**

**Decision date: 01/02/2021**

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### **Appeal Ref: APP/C3620/W/20/3248337**

### **Deepdene Lodge, Deepdene Avenue, Dorking RH5 4AZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Chris Green, c/o Stonegate Homes against the decision of Mole Valley District Council.
  - The application Ref MO/2019/0406/PLA, dated 12 December 2018, was refused by notice dated 18 February 2020.
  - The development proposed is:
    - extension to provide 5 additional apartments following the grant of permission MO/2018/1062;
    - demolition of garages (with extant permission for conversion into 2 units) and re-building to form 2 new units of the exact same size;
    - transfer of land to the Council and the Deepdene Trail.
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### **Decision**

1. The appeal is dismissed.

### **Procedural matters**

2. During the consideration of the application the extent of the application was amended so that the demolition of the garages and their replacement and the transfer of the land to the Council were removed. The application was therefore amended to "extension to provide 5 additional apartments". The reference to the previous permission is superfluous to the proposal. The Council considered the proposal on this basis and I have done also.

### **Background and Main Issues**

3. The Council gave prior approval for the conversion of the appeal building, Deepdene Lodge, to 15 flats in August 2018 pursuant to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and, the following month, for the conversion of the garage building to the east to two residential units. Since the Council made its decision on the appeal application it granted planning permission in respect of the garage building for 'external alterations to facilitate the conversion of the garages into 2 No. residential units'. For identification purposes I will describe this building as "the garage building" although acknowledging the permission for conversion.

4. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework);
- the effect on the Surrey Hills Area of Outstanding Natural Beauty (the AONB); and
- the effect on The Deepdene (including Chart Park) Grade II\* Registered Park or Garden (the RPG), the setting of the Grade II listed Deepdene icehouse and the setting of the locally listed castellated archway.

**Reasons**

5. Deepdene Lodge is one of two former office buildings in the north part of the RPG. It was originally built in the 1960s on the site of the stables to the former Deepdene House which was itself demolished and replaced by an office building, later known as Kuoni House, at around the same time. That building, too, is in the process of conversion to flats, and has been granted permission for an extension.
6. The appeal proposal is to add five flats to Deepdene Lodge, one on top of a single storey element on the side of the building, and four on the main two storey element.

*Whether inappropriate development*

7. The appeal site lies in the Green Belt. I have not been directed to any policies in the development plan relating to the Green Belt so it is reasonable to utilise the relevant policies set out in the Framework.
8. Paragraph 145 of the Framework sets out that the construction of buildings should be considered to be inappropriate in the Green Belt subject to a number of exceptions. Included within this, in paragraph 145 c), is "the extension or alteration of a building provided that it does not result in disproportionate extensions over and above the size of the original building". The Council in the officer report considers that the 42% increase in volume, the measure identified, would not result in a disproportionate extension, but then goes on to consider the visual effect of the proposal in terms of its impact on the openness of the Green Belt and concludes that it would be harmful so as to represent inappropriate development.
9. However, this is not the correct test as set out in the Framework as to whether the proposal would represent inappropriate development. There is no test regarding openness in paragraph 145 c) in a similar way, for example, to those categories of development set out in paragraph 145 b) where analysis includes whether the proposal preserves openness and does not conflict with the purposes of including land within the Green Belt. Thus, the consideration is a simple analysis as to whether the proposal represent a disproportionate extension. By the Council's own analysis this would not be the case; I agree, and consequently the proposal would represent not inappropriate development.
10. The Courts have made clear that if a proposal represents not inappropriate development then the impact on Green Belt purposes, including openness, will already have been taken into account in their classification as not inappropriate

development. This is not the same as consideration of the effect on the AONB which I will consider next.

*Effect on AONB*

11. The appeal site lies close to the edge of this part of the AONB, but wholly within it. Policy CS13 of the Mole Valley Local Development Framework Core Strategy (the CS) indicates that all new development must respect and, where appropriate, enhance the character and distinctiveness of the landscape character area and that, as the AONB is of national significance, the conservation of natural beauty of the landscape will be a priority.
12. The Council has adopted the Surrey Hills Management Plan 2020-2025 (the AONB Management Plan). This does not form part of the development plan but is a material consideration. This sets out a number of planning management policies. These include Policy P1 that in balancing different considerations associated with determining planning applications, great weight will be attached to any adverse impact that a development proposal would have on the amenity, landscape and scenic beauty of the AONB and the need for its enhancement, and Policy P3 that development proposals will be required to be of high quality design, respecting local distinctiveness and complementary in form, setting, and scale with their surroundings, and should take any opportunities to enhance their setting.
13. The AONB Management Plan notes that the landscape is characterised by hills and valleys, traditional mixed farming, a patchwork of chalk grassland and heathland, sunken lanes, picturesque villages and market towns and is a landscape mosaic of farmland, woodland, heaths, downs and commons. The appeal site lies in the North Downs: The Mole Gap part of the AONB.
14. The proposed building design would be in keeping with the existing building. It would thus respect local distinctiveness and would be complementary in form, setting, and scale with its surroundings. While the materials would be different to that of the main building, by the utilisation of appropriate colouration and specification, which could be secured by planning conditions, it would integrate well and not disrupt the predominant horizontal nature of the design of the existing building.
15. The AONB Management Plan notes that effective landscaping and tree screening of native species along with the retention of existing landscaping can render a proposal acceptable so that effects on the wider landscape are kept to acceptable levels. It states that where appropriate a condition should be applied to the permission to provide for the long term retention of the tree screening.
16. The appeal building is in a discrete area enclosed to north and south by vegetation, which I saw in winter. To the east there is the garage building and dwellings beyond, all within the AONB. The area to the southeast is more open towards Kuoni House. Due to the enclosure created by the existing vegetation the proposed development would have no effect on the scenic qualities of the AONB, the landscape and scenic beauty of which would therefore be preserved. However, without this vegetation the additional elements of the proposal would appear intrusive.

17. The Council suggested various conditions in the event that I was minded to allow the appeal. One related to boundary treatments to be erected/retained. Given the AONB Management Plan it is reasonable to conclude that these would be the retention and enhancement of vegetation, both trees and shrubs. The provision of high walls and/or fences to provide appropriate screening would be incongruous in the landscape and harmful to the scenic beauty of this part of the AONB.
18. While trees, where appropriate, can be protected through Tree Preservation Orders, such mechanisms cannot be utilised for shrubs, and it is the shrubs here that provide the necessary screening. Since this relates to the long-term management of land, this is not something that should be to a positive requirement in a planning condition. This is because it would be considered to place an unjustified and disproportionate burden on the landowner and would thus be unreasonable, failing the tests for conditions set out in paragraph 55 of the Framework and the national Planning Practice Guidance (the PPG).
19. I have considered whether it might be appropriate to impose a condition preventing the development taking place until a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) has been completed to ensure the long-term retention and maintenance of the vegetation. However, the PPG notes<sup>1</sup> that such a condition should only be used exceptionally, and given the nature of the proposal here I do not consider that to be the situation.
20. I therefore conclude that the proposal would appear intrusive in the AONB and would fail to conserve and enhance natural beauty. This should be given great weight in line with paragraph 172 of the Framework. Consequently, the proposal would be contrary to Policy CS13 of the CS and to Policies P1 and P3 of the AONB Management Plan as set out above.

#### *Heritage matters*

21. As set out above, the appeal site lies in the Grade II\* RPG. A short distance to the south of the appeal building set in a bank is an icehouse which is a Grade II listed building. Both of these are designated heritage assets. To the east and behind the garage building is a castellated archway which is locally listed and thus represents a non-designated heritage asset.
22. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires special attention to be paid to the desirability of preserving the setting of a listed building.
23. The Framework defines the significance of a heritage asset as the value of a heritage asset to this and future generations because of its heritage interest. The PPG also notes<sup>2</sup> that 'significance' derives not only from a heritage asset's physical presence, but also from its setting.
24. Paragraph 193 of the Framework indicates that great weight should be given to the conservation of a heritage asset and this is irrespective of the level of harm that may occur. It is also emphasised that the more important the asset, the greater the weight should be. Paragraph 194 of the Framework indicates that

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<sup>1</sup> Reference ID: 21a-010-20190723

<sup>2</sup> Reference ID: 18a-006-20190723

- any harm to the significance of a heritage asset, or from development within its setting, should require clear and convincing justification.
25. The RPG dates originally from the late seventeenth century but was developed further in the early nineteenth century. It forms a large area of land, approximately 40 ha in size, and was part of the grounds of the former mansion. The southern part of what now forms the RPG was developed into a golf course in 1897. The grounds of the mansion, historically, were larger than the extent of the RPG, but it is the RPG that is relevant for the purposes of this decision. The appeal site lies in the northern part of the RPG and consists of only a small part of the RPG.
  26. The significance of the RPG, for the purposes of this appeal, relates to its design interest from its dense planting and dramatic topography. Due to the enclosed nature of the landscaping around the appeal site, and the relationship with Kuoni House and the woodland beyond, the effect of any change would be limited to the immediate vicinity of the appeal site.
  27. The main entrance to this part of the RPG is currently from the A24, Deepdene Avenue, to the west of the appeal site. This is not the original entrance to the mansion and was created at the time of the creation of that road. As noted in the designation the lawns sweep down to the entrance in front of the main building. Conversely, the entrance route rises substantially to the main house, and there is a small subsidiary route to the appeal building area as is appropriate to its historic status as the site of the stables. Due to this subsidiary nature and enclosed nature of the landscape the appeal building has little presence on the overall RPG.
  28. Increasing of the height of the building could enlarge the size of the building leading to harm to the significance of the RPG. In terms of the Framework this would represent less than substantial harm. However, provided the existing vegetation is retained this would prevent harm to the RPG as a whole since the subsidiary nature of the building and its presence in the landscape would not change and its significance would be preserved. For the reasons explored above this could not be secured in a planning condition, and this would therefore lead, within the terms of the Framework, to less than substantial harm to the significance of the RPG.
  29. The icehouse is located immediately to the south of the appeal building on the opposite site of the access drive. From the access drive it is not apparent, appearing to be within a vegetated bank. Pedestrian access is obtained by climbing a short set of earthen steps, and turning slightly and downwards to the entrance which is currently blocked.
  30. The significance of the designated heritage asset for the purposes of this case derives from its position within the overall RPG, which I have already considered, and the low-key relationship between the appeal building and the listed building.
  31. While the appeal building would be taller, as the extension element would be set back from the southern elevation and there would be no physical change to the bank within which the icehouse exists, the proposal would preserve the setting and thus the significance of the icehouse.



32. Turning to the castellated archway this is located behind the garage building and, for the purposes of this appeal, can be only glimpsed over that building from ground level and when viewed some distance away from the garage building. It can be seen to a slightly greater extent from the appeal building, as it is possible to see above the garage building, but only somewhat, due to the limited difference in height between the top of the garage building and the top of the castellated archway.
33. The significance of the archway, as identified in the report that accompanied the application, is that it provides a theatrical backdrop in the form of a sham ruin; I agree. Due to the presence of the garage building (or as converted in accordance with the prior approval and planning permission) the setting would not change. If anything, as the archway would be able to be seen from the increased height proposal this would better reveal its presence.
34. The Council has referred to Policy ENV44 of the Mole Valley Local Plan (the Local Plan). However, the version with which I have been provided indicates that this policy has not been saved and is thus not material. In any event, this policy, which dealt with development affecting the setting of listed buildings, appears to mostly duplicate part of Policy ENV43 of the same plan. This policy, which has been saved, indicates that alterations to the setting of a listed building will normally be permitted if it does not detract from the setting of that building. As I have found no harm to the settings and thus the significances of the Deepdene icehouse there would be compliance with this policy. I have not been directed to any development plan policies relating to the settings of non-designated heritage assets.
35. However, the proposal would result in harm to the significance of the RPG, and this would represent less than substantial harm. Therefore, the proposal would be contrary to Policy CS14 of the CS and Policy HC2 of the AONB Management Plan which seek the protection of areas of historic importance. I give this harm great weight. That being the case, paragraph 196 of the Framework states that where a proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal. I will undertake this in the planning balance section below.

### **Planning Balance**

36. The proposal would represent not inappropriate development in the Green Belt and would result in five additional dwellings. This is a public benefit in both economic and social terms. Given the extent of housing need in the area I give this public benefit significant weight and this would balance the less than substantial harm to the RPG identified above. Notwithstanding this, the proposal would result in harm to the AONB and this should be given great weight.
37. Although in the officer report the Council indicates that it cannot demonstrate a five year supply of housing land, given my conclusions on the harm to the AONB the tilted balance set out in paragraph 11 d) of the Framework does not apply.
38. While there are elements where the proposal complies with parts of the development plan, I conclude that the proposal is contrary to the development plan taken as a whole and there are insufficient material considerations that



indicate a different decision to determining the appeal otherwise than in accordance with those provisions.

**Conclusion**

39. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*RJ Jackson*

INSPECTOR