

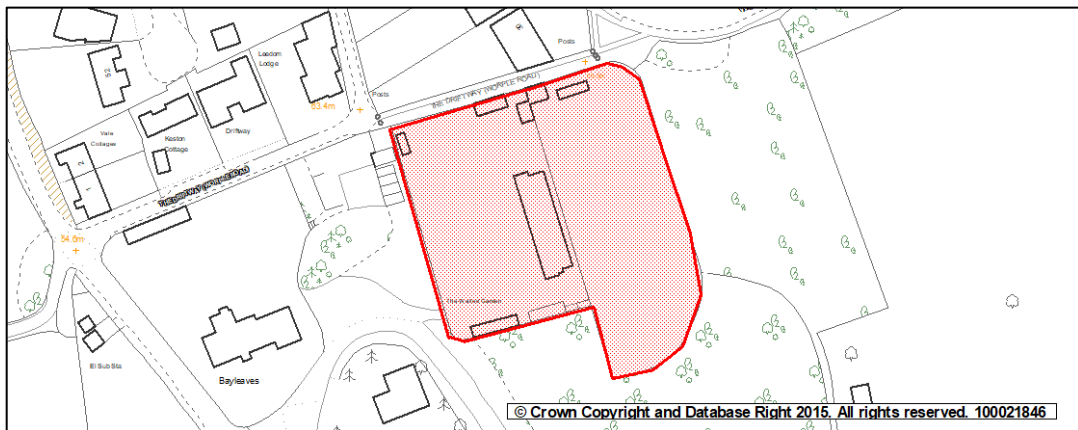
PLANNING OFFICER REPORT

Application No. MO/2022/1647 Detailed
Valid Date: 22-Sep-2022
Applicant: Mr R Hall
Case Officer: Caroline Hall
Ward(s): Leatherhead South
Proposal: Erection of single storey replacement dwelling.
Amendments /amplifications:
Site Location: The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW

Committee: Called in by Councillor Moss.

RECOMMENDATION: REFUSE

Site Plan:



1. Description of Site:

- 1.1. The site comprises a walled garden and has recently gained a certificate of lawful use for the land on the eastern side of the wall as residential use, creating a large plot within which the existing dwelling sits centrally, abutting the boundary wall itself. The existing property was approved as a replacement dwelling in 2009.
- 1.2. The garden is enclosed by high brick walls, one of which cuts the site in two, along with a solid gated entrance in the south western corner. There is a gradual rise in levels running west to east across the site, such that the ground along the eastern boundary is about a metre higher than at the western side of the site.
- 1.3. The site lies to the north east of Downs Lane, Leatherhead and is within the Metropolitan Green Belt.

2. Description of Proposal:

- 2.1. Planning permission is sought for the erection of a single storey replacement dwelling following the demolition of the existing dwelling and buildings within the site.
- 2.2. Planning permission was refused for the same proposal in April this year (MO/2021/1797). The applicant subsequently resubmitted for the same scheme in June (MO/2022/0278) and was heard at the 8th June Development Management Committee meeting where members resolved to refuse permission for the following reason;

The site is situated within the Metropolitan Green Belt and the proposal is inappropriate development harmful to the openness of the Green Belt in conflict with advice contained in the National Planning Policy Framework (2021) and contrary to Mole Valley Local Plan policy RUD8.

3. Relevant Planning History

MO/2022/1038

The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW

Certificate of lawfulness for an existing use in respect of the use of the building for ancillary use and storage for more than 10 years.

UNDER CONSIDERATION

MO/2022/1091

The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW

Certificate of Lawfulness for an existing development in respect of the erection of an outbuilding in excess of 4 years ago.

UNDER CONSIDERATION

MO/2022/1128

The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW

Certificate of Lawfulness for the proposed development in respect of the erection of an outbuilding, comprising pool house and home office.

APPROVED

24-Oct-2022

MO/2022/1288

The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW

Certificate of Lawfulness for an existing development in respect of 3 No. existing sheds on site used for storage.

UNDER CONSIDERATION

TPO/117/1/D

Downside Manor, Downs Lane, Leatherhead, Surrey, KT22 8JW

Tree Preservation Order

TPO Confirmed

20-Nov-1962

MO/2000/0927

The Walled Garden, Downs Lane, Leatherhead.

Application for a Certificate of Lawfulness for the use of a building as a single independent dwelling house.

APPROVED

11-Sep-2000

MO/2007/2094
The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW
Erection of replacement dwelling.
REFUSED
14-Feb-2008

MO/2008/0601
The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW
Erection of replacement dwelling.
APPROVED WITH CONDITIONS
22-May-2008

MO/2009/0478
The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW
Amendment to design of replacement dwelling permitted under MO/2008/0601.
APPROVED WITH CONDITIONS
02-Jul-2009

MO/2021/0339
The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW
Certificate of Lawfulness for the existing use of land as residential curtilage associated with the dwelling known as The Walled Garden.
APPROVED
29-Jul-2021

MO/2021/1797
The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW
Erection of single storey replacement dwelling with pool house.
REFUSED
08-Apr-2022

MO/2022/0278
The Walled Garden, Downs Lane, Leatherhead, Surrey, KT22 8JW
Proposed single storey replacement dwelling and pool house.
REFUSED
10-Jun-2022

4. Statutory/Internal Consultations

- 4.1. Surrey Wildlife Trust – no objection recommends conditions
- 4.2. Drainage Consultant – no objections

5. Third Party/Other Representations

Ward Member Representation	Officer Comment	Relevant Condition
None		

Parish Council Representation	Officer Comment	Relevant Condition
None		

Residents Association Representation	Officer Comment	Relevant Condition

Representation	Officer Comment	Relevant Condition
Summary of Responses Received: (It is noted that the majority of representations are from outside of Leatherhead and the District)		
Support the application, it is appropriate on a site that is part of the townscape not a open field in the countryside	The whole site is designated as Green Belt and therefore Green Belt policies apply.	
Support the design, respects topography and amenity of the neighbours.		
The proposal is modest in scale and size and sympathetic to its surroundings	The five bedroom dwelling of some 900m ³ is not considered to be a 'modest' dwelling	
Energy efficiency of the proposal and renewable energy in the political and economic climate	Core Strategy policy CS19 requires all new dwellings to incorporate renewable energy into its design.	
In keeping with the variety and mix of houses in South Leatherhead	This aspect is discussed in Charter of the Area in the main report.	
The land is previously developed land		
There will be no increases in highways safety, parking, noise	Noted.	

6. Constraints

Metropolitan Green Belt (CS1)
Tree Preservation Order
LandscapeCharArea - MoleGap

7. Development Plan Policies

Core Strategy (CS)

CS1 – Where Development will be Directed
CS13 – Landscape Character

Local Plan (LP)

ENV4 – Landscape Character
ENV15 – Species Protection
ENV22 – General Development Control Criteria
ENV23 – Respect for Setting
ENV24 - Density of Development and Space about Buildings
RUD8 – Replacement of Dwelling in the Countryside

HSG1 – Safeguarding the existing and Proposed Housing Stock
MOV2 – The Movement implications of Development
MOV5 – Parking Standards

8. Material Considerations

Government Guidance – National Planning Policy Framework (NPPF)

Section 2 – Achieving Sustainable Development
Section 5 – Delivering a sufficient supply of homes
Section 11 – Making effective use of land
Section 12 – Achieving well-designed places
Section 13 – Protecting the Green Belt
Section 15 – Conserving and enhancing the natural environment

Supplementary Documents

Affordable Housing SPD 2010, updated January 2018
Affordable Housing SPD Addendum, updated January 2019
Nationally Described Space standards
Vehicular and Cycle Parking Guidance

9. Planning Analysis

- 9.1. Legislation dictates how all planning applications must be determined. Section 70 of the Town and Country Planning Act (as amended) states -

In dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations

- 9.1.1. The main planning issues for consideration are discussed below.

9.2. Principle of Development

- 9.2.1. Mole Valley Core Strategy Policy CS1 of the Mole Valley Core Strategy advises that new development will be directed towards previously developed land within the built-up areas of Leatherhead, Dorking, Bookham, Fetcham and Ashted. The site is located within the Green Belt where there is an objection in principle to new development. There are however exceptions to this which will be considered below.

9.3. Green Belt

- 9.3.1. The site lies within the Metropolitan Green Belt where, as detailed in paragraph 147 of the NPPF, *'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'* Paragraph 148 then goes on to state that in determining planning applications, *'local planning authorities should ensure that substantial weight is given to any harm to the Green Belt' and that very special circumstances sufficient to justify approval of inappropriate development will only exist if the harm caused by reason of inappropriateness and any other harm*

are clearly outweighed by other considerations.' The objective of national policy set out in the Framework is to protect the most important attribute of Green Belts, which is their openness. Openness is considered to be the freedom from and absence of development. Openness is an essential characteristic of the Green Belt. Further substantial adverse weight must be attributed to this harm.

- 9.3.2. The construction of new buildings in the Green Belt is to be regarded as inappropriate development, unless for a number of specifically identified exceptions outlined in paragraph 149 of the NPPF. The exception relating to replacement buildings is as follows;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- 9.3.3. Exception d) is considered by the LPA to be the most relevant exception with regard to proposals for replacement buildings. Replacement buildings can be considered not inappropriate provided that the replacement is not materially larger than the buildings being replaced. It is acknowledged that the NPPF does not define how a materially larger replacement should be measured and therefore a judgement as to what could constitute being 'materially larger' needs to be made.
- 9.3.4. Policy RUD8 of Mole Valley Local Plan is framed along similar lines to the NPPF, advising that replacement dwellings in the countryside are considered acceptable provided they are not materially larger than the dwelling being replaced; is sited on or close to the position of the original dwelling and does not detract from the open and undeveloped character of the countryside.
- 9.3.5. The existing dwelling has a volume of 474.75m³. The replacement dwelling would have a volume of 963.93m³ as measured from the submitted drawings. The applicants figure differs from that of the Council, due to the omission of the 'void' sections and the front canopy which has not been fully included in the calculations.
- 9.3.6. The proposed development represents a significant increase in built volume being more than double of that of the existing dwelling. In addition to the mathematical calculation, the proposed replacement dwelling would visually appear larger than the existing dwelling in terms of a more substantial building mass and spread across the site. The building mass/layout is similar to the previously refused application MO/2022/0278. The minor changes in layout, the modern design still introduces additional building form and massing to the site which would be significantly larger compared to the existing building and does not overcome the previous reason for refusal.
- 9.3.7. The applicant contends that '*given the relationship (physically and functionally) of the existing buildings with the existing dwelling, they can sensibly be considered together in comparison with what is proposed to replace them.*' The applicant sets out 6 'buildings' which they contend should be considered in the replacement buildings 'materially larger' assessment. These are as described in the application as follows; single storey cottage to south boundary, single storey cottage to south boundary, wood shed, stables, shed 2, shed 3. The combined volume of these buildings are 345.39³.

- 9.3.8. With regard to the two single storey cottages along the southern boundary, these buildings were required to be removed by condition 6 of approved application MO/2009/0478 which granted permission for the replacement dwelling that is currently on site. The policy justification for the building's removal still applies and their retention would not be in accordance with policy. Therefore the inclusion of these buildings in conjunction with the application would not be appropriate as effectively this would be 'double counting' them in development on the site. In addition, these buildings have been served a Breach of Condition Notice (BCN) by the Council which requires their full demolition. These 'single storey cottages' cannot therefore be considered as part of the Green Belt assessment in terms of replacement buildings as they are part of separate enforcement proceedings to be removed as required by condition for the original replacement dwelling in situ.
- 9.3.9. It is noted that the applicant has submitted a Certificate of Lawfulness application (MO/2022/1038) for existing development to establish that the two 'single storey cottages' along the southern boundary have been in continuous 10 year in breach of the planning condition that required the removal of these single storey buildings. This application is under consideration.
- 9.3.10. With regard to the other buildings/structures within the site that the applicant has listed in 9.2.7 these sheds and stables would amount to 143.69m³ bringing the total of buildings to be removed from site to 618.44m³ (including existing dwelling). The proposed replacement dwelling would be 963.93m³ and therefore the development would still result in a significant increase considered to be materially larger than the cumulative buildings to be demolished. Furthermore, these other buildings are small domestic timber structures (sheds) that are small scale and low level, discretely located adjacent to the boundary walls with minimal impact on openness. The proposed dwelling would still result in a larger volume compared with the volume of buildings to be removed and coupled with a greater building mass, would also be sited on parts of the site that are currently undeveloped and would therefore negatively impact upon the openness of the Green Belt and remain inappropriate development.
- 9.3.11. The application establishes that the development would result in a mathematical increase in built form over the existing development. In addition, the spatial dimension in terms of position, area and size along with the visual effects of height and design also have an impact on the Green Belts open character and need to be considered.
- 9.3.12. The existing three bedroom dwelling is a single storey building with a mono-pitch roof and is sited immediate adjacent to the existing brick wall dissecting the site. The proposed five bedroom replacement dwelling would also be single storey building and whilst a small amount of the construction would be below ground level, given the rise in ground levels across the sit and the rear most part of the building would sit on higher ground level than the current dwelling and have a split level resulting in the eastern section sitting even higher within the site. To create the positioning of the new dwelling there would be a level of engineering operation to facilitate steps up to the property and a terraced area. The existing dwelling is 25 metres wide by 5 metres deep and a height of 4.6 metres. The proposed dwelling would have a maximum width of 18 metres and a depth of 20 metres and a height of 3.3 metres and would be positioned further into the site. The comparison demonstrates the spatial impact the development would have.

- 9.3.13. Whilst the replacement dwelling would also be single storey in height the footprint and layout would be spread over a much larger area than the existing building coupled with steps and terracing and is considered to cause harm to the openness of the Green Belt.
- 9.3.14. The existing vehicular access driveway would be increased and extend to serve the new position of the dwelling and create a parking hard standing area. This would further cause additional harm to the openness of the Green Belt. The area which is currently grass land would be replaced by a permeable shingle driveway. The submitted drawings label a strip immediately adjacent to the access leading diagonally to the existing dwelling as 'historic hardstanding' however, this is not evident on site and is not in the same position as the proposed area of hardstanding.
- 9.3.15. In the event that it is not accepted that the proposal falls within the scope of the Green Belt exceptions, the applicant has presented the following very special circumstances (VSC);
- *The design of the proposed house is of very high quality, with architectural merit. This is in contrast to the existing house which is poorly designed and poorly built. There would clearly be a marked visual improvement to the site.*
 - *The design incorporates solar PV, air source heat pumps, sedum roofs and a high level of thermal efficiency. There would therefore be a reduction in carbon emissions associated with the site.*
 - *The site was originally associated with Downside Manor (built in the 1860's) and the walled garden is unique. The proposal would give a long-term, viable use for this unusual parcel of land. A letter from EMP Chartered Surveyors has also been submitted to support the view that the site is unique and rare.*
- 9.3.16. The design of the dwelling is of a standard modern design with no significant architectural merit, the existing dwelling has a design that was considered acceptable and granted planning permission under MO/2009/0478. The proposed dwelling is materially larger and is considered to result in visual harm to the site. Therefore no weight is attributed to this VSC.
- 9.3.17. With regard to the proposed dwelling incorporating renewable energy technologies, this is an existing policy requirement under Mole Valley Core Strategy policy CS19 and any development proposal would be expected to accord with this policy regardless of a green belt location. Therefore no weight is attributed to the VSC.
- 9.3.18. The Council's Historic Environment Officer (HEO) has comment on the 'unique and rare' view of the site. The HEO advises that historically, walled gardens that were ancillary to large houses often had dwellings associated with them in the form of gardener's cottages. These would have been variously located in relation to the walled garden – some inside, some attached/straddling the wall and some outside. In this case the dwelling was built in the mid/late C 20th and does not appear to have been part of functional working of the garden as shown by the 1896 OS map. This early map shows no building in this location. It is also notable that the large group of glass houses to the west survived until at least 1935. The HEO advises that he does not agree that this site is unique in having a dwelling within it. There is an example

of a cottage within a walled garden in nearby Mickleham Downs. What is different at Downside is that it is a new build that doesn't seem to be historically associated with the main house. The Council attributes limited weight to this VSC.

- 9.3.19. As set out above, the Green Belt assessment is both mathematical and visual, the cumulative and progressive harm to the Green Belt by this proposal is evident and there are not considered to be any very special circumstances that outweigh the identified harm and the proposal is considered contrary to the NPPF. Therefore, it is considered that the proposed replacement dwelling would be materially larger than the existing dwelling resulting in inappropriate development in the Green Belt which is contrary to the NPPF and Mole Valley Local Plan policy RUD8.

9.4. **Impact on Character of Area**

- 9.4.1. ENV22 of the Mole Valley Local Plan contains seven criteria for sound development control practice. It requires that development should be appropriate to the site in terms of its scale, form and appearance. It requires that development should also respect the character and appearance of the locality.
- 9.4.2. ENV23 of the Mole Valley Local Plan sets out that new development will normally be permitted where it respects its setting, taking account of the scale, character, bulk, proportions and materials of the surrounding built environment and townscape features such as street patterns and space about buildings.
- 9.4.3. Core Strategy policy CS14 seeks to ensure that new development respects and enhances the character of the area in which it is proposed whilst making the best use of the land available.
- 9.4.4. The proposed dwelling has a contemporary design with white render and slim line grey aluminium glazing on the western section. The rear section of the dwelling would be clad in vertical larch cladding. The proposed design is not unattractive and would not be out of keeping with the character of the area, which includes older period properties and more modern buildings. However, the buildings overall scale would cause it to appear more prominent within its plot than the existing property.
- 9.4.5. The existing garden wall across the middle of the site would be retained and reduced in height across half the length.
- 9.4.6. In terms of the location of the dwelling it is proposed to be located to the east of the existing property. It is proposed close to the siting of the existing dwelling and therefore the test of the policy RUD8 relating to the siting is considered to have been met.
- 9.4.7. The development is not considered to respect the rural character and appearance of the area and would cause harm to the openness contrary to Mole Valley Local Plan policy RUD8 and guidance contained within the NPPF.

9.5. **Impact on Neighbouring Residential Amenity**

- 9.5.1. ENV22 of the Mole Valley Local Plan sets out seven general criteria for sound development control practice. Criterion 2 requires that the proposal does not significantly harm the amenities of neighbouring occupiers.
- 9.5.2. The replacement detached dwelling is sited in a substantial plot and there is a wall running around the perimeter of the site which is approximately 2 metres in height. There are no immediate neighbouring properties to the site. Therefore it is considered that the proposed development would not result in any impact on the amenities of neighbouring properties in terms of overlooking or overbearing.

9.6. **Future Occupiers' Amenity**

- 9.6.1. Mole Valley Local Plan policy ENV22 'General Development Control Criteria' sets out seven criteria for sound development control practice' Criterion 7 requires that a design and layout that would provide a satisfactory environment for occupiers of the new development.
- 9.6.2. The proposed development would provide more habitable floorspace which is of benefit to the future occupiers. There is significant outdoors space for the use of future occupiers. As such, there is no objection raised in this regard.

9.7. **Impact on Highway Safety**

- 9.7.1. NPPF Paragraph 111 states, 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'
- 9.7.2. The application site is accessed via Downs Lane, which is a private road and does not form part of the public highway, therefore it falls outside The County Highway Authority's jurisdiction. The existing access to the site would remain and the proposal would create at least 4 car parking spaces within the site which would meet the requirements of SCC Parking Standards. The proposal is not considered to result in a material impact on the safety and operation of the adjoining public highway.

9.8. **Impact on Biodiversity**

- 9.8.1. The NPPF advises that when determining applications authorities should aim to conserve and enhance biodiversity. It states that 'opportunities to incorporate biodiversity improvements in and around developments should be encouraged especially when this can secure measurable net gains for biodiversity.' Local policies CS15 and ENV15 which together also seek to protect biodiversity and geological features.
- 9.8.2. The NPPF makes it clear at para 170 that: 'Planning Policies and decisions should contribute to and enhance the natural and local environment by: minimising impacts on and providing gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'.

- 9.8.3. The applicant has submitted an ecological assessment in support of the application. Surrey Wildlife Trust (SWT) have reviewed the information and advised that the submitted reports appears appropriate in scope and methodology and has identified the likely absence of active bat roosts within the development site and therefore advise that bats do not appear to present a constraint to the proposed development.
- 9.8.4. However, bats are highly mobile and move roost sites frequently and therefore SWT advise a precautionary approach to any works. SWT have recommended an informative with regards to incorporating biodiversity enhancements within the site.
- 9.8.5. The site plan shows proposed grassed terraces, additional planting and an increase in hardstanding. There is a blanket TPO across the site however, the development is not considered to result in a detrimental impact to any protected tree.
- 9.8.6. The proposal is not considered to conflict with the above policies and guidance. As such, there is no objection raised in this regard.
- 9.8.7. **Sustainable Construction**
- 9.8.8. Policy CS19 of the Core Strategy seeks to achieve sustainable development through the use of sustainable construction techniques, renewable energy creation and energy conservation. In order to attain these goals, new dwellings are required to include a 10% reduction in total carbon emissions via on site installation and implantation of decentralised and renewable or low carbon energy sources.
- 9.8.9. Compliance with these aspects of the policy could be satisfactorily controlled through the imposition of relevant planning conditions had the development been otherwise acceptable.
- 9.9. **Local Financial Considerations**
- 9.9.1. Policy CS17 of the Core Strategy states that development should make provision for new infrastructure where necessary. However, since the adoption of the Core Strategy the Community Infrastructure Levy (CIL) was introduced by Mole Valley District Council on 1st January 2017 and places a mandatory charge on new residential and retail developments. The Council will publish an annual infrastructure list detailing the infrastructure projects or types of infrastructure which the Council intends will be or may be, wholly or partly funded by CIL. For further information regarding CIL, please visit [CIL and Affordable Housing Contributions | Mole Valley District Council](#). This development is CIL liable, but may be subject to an application for exemption.

10. Planning Balance

- 10.1. The proposed development comprises inappropriate development in the Green Belt and further harm is attributed to the impact on the openness of the Green Belt and harm to the character of the area due to the proposals size, scale, and bulk and massing. There are no sufficient very special circumstances to outweigh the identified harm, the proposal is contrary to Mole Valley Local Plan policy RUD8 and guidance contained within the NPPF.

- 10.2. It is considered that the scheme would not accord with the development plans as a whole and would not represent sustainable development in line with the requirements of the Framework.

11. Recommendation

- 11.1. It is considered that the proposal would conflict with the adopted development plan and national guidance and as such refusal is recommended.

Reasons for Refusal

1. The site is situated within the Metropolitan Green Belt and the proposal is inappropriate development harmful to the openness of the Green Belt in conflict with advice contained in the National Planning Policy Framework (2021) and contrary to Mole Valley Local Plan policy RUD8.