



Appeal Decision

Site visit made on 2 September 2016

by **Peter D Biggers** BSc Hons MRTPI

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

Decision date: 28 September 2016

Appeal Ref: APP/J4525/W/16/3153157

Land at St Aidan's Terrace, West Herrington, Houghton le Spring DH4 4LZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Helen McCall against the decision of Sunderland City Council.
 - The application Ref 15/02148/OUT, dated 20 October 2015, was refused by notice dated 22 April 2016.
 - The development proposed is erection of single dwelling.
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Application for Costs

1. An application for costs was made by Mrs Helen McCall against Sunderland City Council. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Procedural Matters

3. The application for the proposed development is in outline with all matters reserved. A plan has been submitted showing an indicative layout of the dwelling on the appeal site which I have taken to be for illustrative purposes only.
 4. Because of a dispute between the parties over whether the appeal site is or is not in the Green Belt it is necessary to set out my conclusions on this matter before turning to the decision itself as the conclusion on this informs the main issues.
 5. Based on the *Sunderland Unitary Development Plan* (UDP) Proposals Map the site is not shown as within the Green Belt and as a result of this the Council's appeal questionnaire also stated the site is not within the Green Belt. However the site was included within the Green Belt in the *Tyne and Wear Green Belt Local Plan 1985* (TWGBLP) and it has been put to me that in preparing the UDP Proposals Map the site was mistakenly excluded from the Green Belt as a result of a drafting error.
 6. I have been referred to case law specifically *Fox Land and Property Ltd v SoS CLG [2015]*, and *R (Cherkley Campaign Ltd) v Mole Valley DC [2014]* as relevant to the matter. The former concludes that the Proposals Map of a Plan is not in itself policy, but illustrates detailed policies and assists in understanding the geographical areas to which policies relate. The latter case concludes that to fully understand planning policies, it is permissible to consider supporting text and other illustrative material. In that respect it has been put to me that the supporting text to the UDP makes clear both the extent of the Green Belt in the vicinity of the site in paragraph 22.83 and in general illustrative terms in Figure 11.2 and makes clear
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at paragraph 11.25 where the Green Belt boundary, established by the TWGBLP, is to be changed by the UDP.

7. With regard to the former I am not satisfied that the boundary description at paragraph 22.83 is sufficiently clear in itself to conclude that the site is intended to be in the Green Belt. However, notwithstanding the small scale of figure 11.2, the area east of West Herrington, including the appeal site, does seem to be within the Green Belt. It is also clear from the list of additions to and deletions from the Green Belt in paragraph 11.25 which areas are proposed to be changed and that the appeal site and its surroundings is not one of the proposed deletions from the Green Belt as defined in the TWGBLP in 1985. Therefore the Green Belt can be taken to include the appeal site as has been the case since 1985.
8. In reaching a decision on this matter I must also have regard to the *National Planning Policy Framework* (the Framework) at paragraph 83 which makes it clear that once boundaries are defined they should only be changed exceptionally. No exceptional justification is presented through the UDP regarding boundary changes in the vicinity of the site.
9. Accordingly, unsatisfactory though the Proposals Map error is, I must consider all parts of the Development Plan when determining whether the site is or is not in the Green Belt. There is no evidence to support the view that there was any intention to amend the Green Belt as defined in the 1985 TWGBLP and to delete the site; nor any evidence of a process of review of the Green Belt in that area.
10. The appellant has referred me to the case of *Hundal v South Bucks DC [2012]*, which established that where a Plan has been adopted without challenge all parties are entitled to proceed on the basis that the Plan has been lawfully adopted. Para 23 of the judgement quotes the then relevant PPG2, which states the importance of defining the Green Belt Boundary. I acknowledge that in the normal course of events it would be expected that the Proposals Map would be accurate. However, for the reasons above, I am not persuaded that the findings in the Hundal case bring me to any different conclusion. I have also been referred to the fact that the Council, in preparing the local plan which will replace the UDP, is again considering whether to review the Green Belt boundary, including an area on the north side of Herrington Road. However this review process has not been completed and the fact that it may result in a future change to the Green Belt again does not lead me to a different conclusion with regard to the current status of the site.
11. I will therefore continue with the determination on the basis that the site is within the Green Belt.

Main Issues

12. The main issues are therefore:
 - Whether the proposal is inappropriate development in the Green Belt for the purposes of the Framework and development plan policy.
 - The effect of the proposed development on the openness of the Green Belt.
 - The effect of the proposed development on the character and appearance of Herrington Road and the countryside within the Green Belt.
 - If the development is inappropriate whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other

considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

13. The appeal site lies on the south side of Herrington Road in an open countryside setting just to the east of the ribbon of development in St Aidan's Terrace from which it is separated by a Public Right of Way. The triangular site forms part of a larger field parcel of grazing land extending southwards to Herrington Hill which is a Site of Special Scientific Interest. The site itself is relatively flat but the land to the south rises gradually to Herrington Hill. Herrington Road is developed on its north side by The Stables - a small residential estate.

Whether the proposal would be inappropriate development in the Green Belt

14. Paragraphs 89 and 90 of the Framework establish the circumstances in which development in the Green Belt would not be inappropriate and which amongst other things includes limited infilling in villages. The tests to be applied in this case are whether the proposal would be in a village and whether the proposal would constitute limited infilling.
15. The site is outside the developed or built up area of West Herrington. Development on the south side of Herrington Road finishes at Mitford End, the last property in St Aidan's Terrace, which is separated from the site by trees, shrubs and the Public Right of Way. Infilling is normally taken to be the development of a small gap in an otherwise built up frontage. The development of a new dwelling in the location proposed would not meet this definition and would simply be development in an open countryside setting, albeit overlooked from development on the north side of Herrington Road. The proposal would be inappropriate development in the Green Belt, contrary to the Framework and UDP policy CN2 which establishes the Green Belt and its purposes and which, amongst other things, includes safeguarding the city's countryside from further encroachment. The proposal would also be contrary to UDP policy CN3 which restricts inappropriate development within the Green Belt consistent with the Framework.

The effect of the proposal on openness

16. The Framework confirms that an essential characteristic of Green Belts is their openness. The construction of a new dwelling on the appeal site, by introducing new development into the Green Belt, would inevitably have a significant impact on its general openness.
17. The appeal site and associated grazing land connects open countryside across the south side of West Herrington. The fact that development continues on the north side of Herrington Road a little further to the east than is the case on the south side of the road, does not reduce the role the appeal site plays in contributing to openness.

Character and appearance

18. As stated above the appeal site forms part of an area of grazing land backed to the south by a mature tree belt framing the lower slopes of Herrington Hill. As such the countryside provides an attractive landscape setting to West Herrington.
19. Viewed from the approach to West Herrington from the East along Herrington Road the St Aidan's Terrace development is largely screened from view by trees and shrubs along the Public Right of Way particularly whilst the trees are in leaf and

the appeal site forms part of undeveloped countryside. The introduction of a new dwelling into this setting would appear as an incongruous encroachment. Moreover the visual impact of the dwelling in views eastwards along Herrington Road leaving the village would be equally damaging by introducing development east of the Public Right of Way. I acknowledge the intention to design the property to be in keeping with the scale of development in St Aidan's Terrace but this would not overcome the harm to the open countryside setting.

20. It has been put to me that the intention would be to landscape the south/south-eastern boundary of the appeal site and that the opportunity exists to enhance tree planting as part of the Great North Forest on land within the ownership of the appellant. However I am not persuaded that boundary landscaping would make any material difference at least for some considerable time given the open countryside setting. With regard to the opportunity to enhance the Great North Forest in accordance with UDP policies CN15 and CN16 no such specific proposal was put forward within the outline application.
21. The addition of a new house, even restricted in height, would impact significantly on local views and urbanise and change the character and appearance of the countryside setting to West Herrington. The presence of street lighting and The Stables development on the north side of the road does not of itself create an urban character warranting further development. As such the proposal would be contrary to UDP policies CN5 and B2 which, respectively, safeguard the visual amenity of the Green Belt and seek to ensure that the design of new development respects and enhances the best qualities of the locality.

Other Considerations

22. It has been put to me that the proposal would bring social and economic benefit by adding to the provision of housing locally in a sustainable location and that the Council cannot demonstrate a 5 year supply of housing which is deliverable. Therefore in terms of paragraph 49 of the Framework the housing policies of the UDP should not be considered up to date and in these circumstances the presumption in favour of sustainable development applies and paragraph 14 of the Framework is engaged.
23. The Sunderland Strategic Housing Land Availability Assessment 2016, albeit in draft, indicates that in excess of 5 years' supply of deliverable and developable housing sites can be delivered between 2016 and 2021. No specific evidence has been submitted to support the appellant's assertion that there would be a shortfall. In any event even if there was a shortfall leading to an inability to demonstrate a 5 year supply, the footnote to paragraph 14 of the Framework makes it clear that this does not constitute a reason to set aside specific policies of the Framework indicating that development should be restricted (including those relating to the Green Belt).
24. Notwithstanding the modest social and economic benefits which could be secured from construction of an individual house, the Framework adopts a wide definition of sustainability. Indeed, it makes clear at paragraph 6 that regard must be had to the document as a whole in determining what the concept means in practice. Paragraph 8 of the Framework states that all economic, social and environmental gains should be sought jointly. In terms of paragraph 9 of the Framework, and for the reasons given above, the taking of an area of Green Belt countryside for development would not be a positive improvement in the quality of the built and natural environment. In this case, the proposal would not be sustainable development in the terms of the Framework.

25. I note that some other aspects of the development which have been matters of concern to third parties, including access arrangements, traffic, and residential amenity have been deemed by the Council to be acceptable subject to control at the reserved matters stage through appropriate conditions. However planning appropriately for these aspects and ecological and contamination issues, which the Council also considers can be controlled by conditions, is a prerequisite of any proposed development and is therefore neutral in terms of the weight I can attach in favour of the development.

Conclusion

26. I have concluded that the site is within the Green Belt and the proposal would be inappropriate development contrary to the Framework and the UDP. There would also be a loss of openness in the Green Belt and harm to the character and appearance of West Herrington and adjoining countryside. Together these factors constitute significant material harm to the Green Belt to which I must attach substantial weight.

27. For the reasons given above the 'other considerations' would be insufficient to clearly outweigh the harm to the Green Belt that I have identified. Therefore the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. Accordingly the appeal should be dismissed.

P. D. Biggers

INSPECTOR