



Appeal Decision

Site visit made on 18 June 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2019

Appeal Ref: APP/T0355/W/19/3225260

Hurford House, New Road, Hurley, Maidenhead SL6 5LN

- 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 Graham Denton against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/02342, dated 7 August 2018, was refused by notice dated 7 December 2018.
 - The development proposed is the erection of a detached, two storey, 5-bedroom dwelling with associated garage building, parking, landscaping and new access for Hurford House.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Graham Denton against the Council of the Royal Borough of Windsor and Maidenhead. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposal on the character and appearance of the area, including trees, with particular regard to whether it preserves or enhances Hurley Conservation Area.
 - If inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, whether this amounts to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

4. Saved policy GB1 of the Royal Borough of Windsor and Maidenhead Local Plan (incorporating alterations) June 2003 (LP) indicates that development for new buildings in the Green Belt is limited to specified exceptions unless there are very special circumstances. Saved Policy GB2 of the LP indicates that, amongst other matters, permission will not be granted for new development if it would have a greater impact on the openness of the Green Belt or the purposes of including land in it, than the existing development on the site. Finally, saved Policy GB3 sets out a general presumption against residential development in the Green Belt save for specified exceptions, one of which is infill development within defined settlements in the LP. Infill is described as the closing of an existing small gap in an otherwise built up frontage.
5. Even though the LP was adopted some time ago, these policies are broadly in line with advice in section 13 of the National Planning Policy Framework (the Framework). It is my duty to determine the scheme in accordance with the development plan unless material considerations indicate otherwise. However, where there is inconsistency between the LP and the listed exceptions in paragraph 145 of the Framework, the Framework attracts more weight.
6. Although both parties accept that the appeal site lies within the village of Hurley, there is disagreement as to whether it constitutes limited infilling within a village as referred to in paragraph 145(e) of the Framework. There is no definition of limited infilling within the Framework, and on that basis, it is reasonable to use the description within policy GB3 in applying the Framework policy. Furthermore, this is similar to the approach used by the Inspector in an appeal decision¹ to which I am referred. Neither is it significantly different to the approach used by the Inspector in a further appeal decision² in Sturt Green cited by the appellant.
7. Hurford House is set within extensive grounds on the eastern side of New Road, and on the edge of the village. Whilst there are other houses along New Road, those closest to the appeal site are also detached and set within generous grounds. The space between Hurford House and the nearest dwellings at The Manor House and Tudor Cottage is considerable. As such, this low density pattern of development does not amount to a built up frontage, and neither could the gap between the houses generally be described as small.
8. In this regard, it contrasts with the Sturt Green appeal decision, where the evidence before me suggests there was a more well-defined built up frontage. Hence, I cannot agree with the appellant's assertion that the appeal site is far more developed and surrounded by development than in that case. It follows therefore, the proposal would not constitute limited infilling within the meaning of the Framework or the LP.
9. The appellant asserts that the proposal would nevertheless fall within paragraph 145(g) of the Framework. This permits limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. At present the appeal site forms part of the garden to Hurford

¹ Reference APP/T0355/W/17/3167166

² Reference APP/T0355/W/18/3201716

House and contains a tennis court surrounded by fencing. I accept that on this basis, it does meet with the definition for previously developed land in the Framework, which refers to land occupied by a permanent structure and includes residential gardens that are not within built-up areas.

10. However, paragraph 145(g) requires such a redevelopment not to have a greater impact on the openness of the Green Belt than the existing development. At present, although hard-surfaced, the tennis court is generally open, and the chain-link fence allows for views across the space. By contrast the appeal proposal would result in the introduction of a substantial house reaching up to 10 metres in height, as well as a separate sizeable detached garage. Accordingly, the volume of the built form would have an adverse spatial impact on the openness of the Green Belt.
11. Furthermore, the increased height, substance and proximity of the proposed dwelling to New Road would allow for views of the upper parts of the built form from the road, and to a degree, from some surrounding properties, resulting in a visual harm to openness. Taking these factors together, the proposal would result in moderate harm to the openness of the Green Belt.
12. Consequently, as the appeal proposal would have an adverse spatial and visual impact upon the openness of the Green Belt, it would not fall within the scope of development described in paragraph 145(g) of the Framework. It follows therefore, that the proposal constitutes inappropriate development in the Green Belt. As I have already considered the impact of the proposal on openness, and found it to cause moderate harm, there is no requirement to consider it further as a separate matter.

Character and appearance

13. The Hurley Conservation Area (CA) covers most of the village of Hurley, and its significance lies in part in the way the pattern of the settlement, its relationship with the River Thames and its buildings and spaces reflect the evolution of the village over a considerable period.
14. In contrast to the historic core, the lower density dwellings set within generous grounds along New Road reflect more recent growth within the village. Interest is derived from the aesthetic appearance of the larger detached properties, which includes pastiche architecture, the sense of spaciousness and mature tree cover.
15. The Conservation Area Statement for Hurley (June 1995) refers to Hurford House as being within a good example of a group of mock Tudor houses. Notwithstanding the age of the document, and that the evidence suggests that Hurford House was constructed between 1948-61, rather than the 1930's, from my observations on site, I agree that it forms part of an impressive group of detached dwellings located towards the southern edge of the CA. As the appeal site forms part of the grounds of Hurford House and includes several mature trees, it plays a part in the positive contribution Hurford House makes towards the spacious character and appearance of the area.
16. Whilst I accept that the form and style of the proposed dwelling would be reasonably in keeping with the surrounding properties, it would nevertheless, fail to pay sufficient regard to the pattern of the layout. The introduction of a sizeable dwelling into this spacious area would diminish the sense of openness

at a point where the density of built form is tapering out towards the edge of Hurley. Notwithstanding the appellant's reasoning³ for the proposed location, the adverse effect would be exacerbated by the pronounced location of the dwelling relatively close to New Road, and noticeably forward of both Hurford House and the Manor House.

17. I acknowledge that the appellant has provided evidence⁴ to show that the proposal would retain the majority of trees that make a positive contribution to the character and appearance of the area. Moreover, I accept that some of the concerns raised by the Council's Tree Officer could be satisfactorily addressed through securing further details by using planning conditions.
18. Nevertheless, the proximity of the proposed dwelling to a mature sycamore tree⁵ adjacent to New Road would necessitate pruning to provide enough clearance for construction. Thereafter, the position of the tree directly in front of the sitting room and master bedroom principal windows, would be likely to result in on-going pruning or pressure to remove the tree altogether, in order to improve levels of light and outlook for those rooms. The appellant suggests that concerns about such future pressures are hypothetical, and there are mechanisms open to the Council to resist future inappropriate tree work. Be that as it may, policy N6 of the LP advises that retained trees should be given adequate space to prevent nuisance to occupiers of new buildings and to allow for future growth, and therefore it follows that likely conflicts should be avoided.
19. Furthermore, the driveway and turning arrangements would encroach further into the root protection area for the tree than is presently the case. Although it might be possible through careful construction to minimise harm, the British Standard⁶ general advice in relation to permanent hard surfacing within the root protection areas applies when such development is considered unavoidable. Based on the information presented, it is not clear why such proximate access and turning arrangements are unavoidable. Due to its prominent location near to New Road, the sycamore tree currently makes a significant positive contribution to the appearance of the CA and would otherwise be likely to have greater than 10 years of remaining life. Taking these factors together, I am not assured that the development would avoid unacceptable harm to this tree.
20. Therefore, the proposal would cause harm to the appearance of the CA as a designated heritage asset. However, given the relatively minor scale of the proposal this would be less than substantial harm to the significance of the CA as a whole. Nevertheless, I am required under section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. As such, the harm attracts considerable importance and weight.
21. Paragraph 196 of the Framework advises that such harm should be weighed against the public benefits of the proposal. There would be short term economic benefits associated with the construction of the development. Longer term benefits would arise from the provision of an additional property in an

³ Fig. 1 Appellant's final comments

⁴ Statement of Jago Trevelyan Keen & Tree Protection Plan

⁵ Tree 2 in the tree survey

⁶ Reference BS 5837:2012 Section 7.4.1

accessible location, and the economic contribution to the local area made by future residents. However, as the proposal is a single dwelling these benefits would be limited, and thus would not amount to public benefits that outweigh the harm.

22. The appellant refers to the enclosed nature of the site such that it would not feature prominently in wider views, and therefore has limited impact on the significance of the CA. However, glimpses would be possible from New Road with the upper portions of the built form being visible. Moreover, I am aware of no basis to protect the conservation area solely from the public domain, and the development would be seen in some views from adjacent gardens and houses.
23. I therefore conclude that the proposal would fail to preserve the character or appearance of the Hurley Conservation Area. Whilst it would cause less than substantial harm to its significance as a designated heritage asset, in the absence of public benefits to outweigh this harm, it would be contrary to policy CA2 of the LP. This policy seeks, amongst other matters, to preserve and enhance the character and appearance of conservation areas. Furthermore, in relation to the likely impact to the mature sycamore tree adjacent to New Road the proposal would conflict with policy N6 of the LP, which requires new development to make suitable provision for the retention and protection of trees.

Other considerations

24. I am referred to the permission⁷ granted in 1996 for the Manor House to the north of the appeal site. The appellant contends that this development was considered acceptable in terms of the impact on the Green Belt and CA. I am not aware of all the circumstances or policies that were in force that led the Council to this decision over 20 years ago. As such, I am unable to make a direct comparison with the scheme before me and therefore, it attracts limited weight. This is also true of another longstanding development at Melton Lodge, west of the appeal site. In any event, I have determined the appeal proposal on its own merits.
25. The appellant is critical of the evidence base and Green Belt review undertaken by the Council in relation to the emerging Borough Local Plan 2013-2033, Submission Version and questions whether Hurley should remain a washed over village within the Green Belt. The appeal site has separately been submitted to the Council as part of their Housing and Economic Land Availability Assessment. Decisions about such designations are made through the development plan process, no doubt taking into consideration numerous other factors of which I am not aware. Be that as it may, there is no dispute between the parties that the appeal site is currently within the Green Belt within the adopted development plan, and I have assessed the proposal accordingly.
26. Further concerns are outlined by the appellant in relation to the length of time it took the Council to determine the decision and the level of communication throughout. However, these are matters that fall outside the scope of my decision, which is based on the planning merits of the case.

⁷ Reference 95/00558/FULL

Green Belt balancing exercise

27. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt. Moreover, very special circumstances to allow inappropriate development will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case, the proposal amounts to inappropriate development, and moderate harm would also be caused to the openness of the Green Belt. These factors attract substantial weight.
28. In addition, the less than substantial harm that would result to the character and appearance of the Hurley Conservation Area is a matter of significant weight. Whilst the other considerations advanced by the appellant have been taken into account, they attract limited weight. Accordingly, I find that the other considerations in this case do not clearly outweigh the harm identified. Consequently, the very special circumstances necessary to justify the development do not exist.
29. Therefore, the proposal would amount to inappropriate development in the Green Belt and cause harm to openness. It would therefore be contrary to policies GB1, GB2 and GB3 of the LP that, amongst other matters, share a common objective to protect the Green Belt from inappropriate development.
30. Furthermore, notwithstanding that the Council is currently unable to demonstrate a 5 year supply of deliverable housing land, as the proposal is inappropriate development it would conflict with the advice in paragraph 143 of the Framework and provides a clear reason for refusing the development proposed in line with paragraph 11(d)(i).

Conclusion

31. For the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector