



Appeal Decision

Site visit made on 25 February 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th May 2020

Appeal Ref: APP/K0425/W/19/3241262

Land Adjacent to Hilltop, Hammersley Lane, High Wycombe HP10 8HG

- 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 Wesley McCarthy of Nicholas King Homes against the decision of Buckinghamshire Council - Wycombe Area.
 - The application Ref 19/06940/FUL, dated 8 August 2019, was refused by notice dated 2 October 2019.
 - The development proposed is for the construction of a four-bedroom house, with attached garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 1 April 2020 Wycombe Borough Council, along with other councils merged into a single Unitary Authority called Buckinghamshire Council. The authority's new name has been referred to in the banner heading.

Main Issues

3. The main issues are;
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and
 - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

4. The appeal site is situated in the Green Belt and comprises an area of land which, at the time of my visit was absent of buildings, enclosed by security and ranch fencing along its frontage and rear boundary, and predominantly covered in hardcore and grass. The National Planning Policy Framework (the Framework) regards the construction of new buildings as inappropriate development, other than in a number of specified exceptional circumstances.
5. One of those exceptions is limited infilling in villages (paragraph 145 e)). Another exception is the limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in

- continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development or would not cause substantial harm to the openness of the Green Belt where the development would contribute to meeting an identified affordable housing need (paragraph 145 g)).
6. Local Plan¹ Policies CP1 and CP8 require, amongst other things, that new development contributes towards delivering the sustainable development objectives of the Local Plan which are set out in its policies, and to protect the Green Belt from inappropriate development.
 7. Policy DM42 of the Local Plan acknowledges those exceptions in the Framework and qualifies some in more detail. One such clarification refers to limited infilling only within 'built-up' villages identified on the Policies Map and in accordance with its own definition, in the supporting text to the policy. The detailed definition of limited infilling includes that at most it would comprise one detached or one pair of semi-detached dwellings in an existing small gap between other buildings in the built up area, and only where the siting would also be appropriate with regards to settlement pattern and the grain and morphology of the village.
 8. The Local Plan was adopted following the latest version of the Framework², which does not specifically define villages or limited infilling. However, whilst earlier guidance may have been more prescriptive in that regard, there is nothing in the Framework that specifically prohibits development plans being more prescriptive in defining the extent of a village or the parameters for what might be accepted as limited infilling. Accordingly, I do not find that Policy DM42 to be inconsistent with the Framework in doing so, or in restricting limited infilling to the villages referred to in the supporting text to Policy DM42.
 9. The supporting text to Policy DM42 refers to the villages in the Green Belt as appropriate for limited infilling as being those which are washed over by the Green Belt but identified in the Settlement Hierarchy and Strategy as sustainable locations for incremental growth, and states that they include Hughenden Valley, Lacey Green, Loosley Row and West Wycombe. Those settlements which are closest to the appeal site, namely Tylers Green and Loudwater, are not included in that list, and the Council has indicated that the site is not within a built-up village with reference to Policy DM42.
 10. However, I have also had regard to the *Julian Wood* judgement³, which refers to the characteristics of the site 'on the ground' being considered in addition to whether a site is within a settlement boundary. I have also been directed to two appeal cases⁴ which followed that approach, although I note that those pre-date the Local Plan. Nonetheless, having regard to that court judgement, and to the more general reference to villages in the Framework, I have also assessed the characteristics of this particular site and its surroundings based on the circumstances on the ground.
 11. The appeal site comprises part of a relatively wide gap between the dwelling at Hilltop, the end property in a long line of mainly detached dwellings located on the western side of Hammersley Lane which are within the settlement

¹ Wycombe District Local Plan – Adopted August 2019

² National Planning Policy Framework, February 2019

³ *Julian Wood v SSCLG & Gravesham Borough Council* [2015] EWCA Civ 195

⁴ APP/K0425/W/17/3188084 and APP/K0425/W/17/3188568

boundary, and Willow House, one of 5 houses⁵ recently permitted and built on a former nursery site within the Green Belt to the north. The plot is flanked by two narrow corridors of vacant land covered in grass.

12. The southern corridor, between the appeal site and the side boundary of Hilltop, has a comparable frontage dimension to the appeal site, and with existing houses at Hilltop, Elstead and Chelston to the south. Although it occupies a position close to a largely continuous sequence of dwellings to the south, the intervening gap between the appeal site and boundary of Hilltop marks a subtle but visible detachment from the contiguous succession of residential boundaries that line the western side of this part of Hammersley Lane. The gap, albeit narrower, between the appeal site and the group of 5 houses to the north represents a continuation of this more disjointed built frontage. This persists further to the north along the western side of Hammersley Lane, where gaps between single dwellings and small clusters of houses comprise large side gardens, small groups of mature trees and fields that form a loose and sporadic arrangement of properties, between the site and the main built-up part of Tylers Green. This contrasts with the more contiguous built frontage that extends up to and includes Hilltop to the south of the appeal site. Consequently, whilst I have noted its location in relation to the village entrance sign for Tylers Green, the appeal site's more divorced physical location between undeveloped land and its more visible association with a fragmented built frontage, conveys the impression that it is outside of the envelope of a settlement, albeit in close proximity.
13. Drawing those threads together, for the reasons given, and having regard to the development plan and to my observations on site, I conclude that the site would not fall within a village.
14. Although the dwelling and plot dimensions would be similar to those of other dwellings in the immediate vicinity of the site, it would nonetheless appear disconnected from the side boundary of Hilltop by the intervening vacant land. Moreover, the gap created by the gas main easement running between the site and the boundary with Willow House, although narrower than that to the south, would also visually and physically separate the proposed dwelling from that more recent development to the north. As a result, the proposed development would not represent infilling of a small gap between other buildings in the built frontage, or the continuation of that existing development. Rather, it would appear as a separate and distinct structure flanked by open areas of land which would detach it from the otherwise continuous frontages of buildings in either direction beyond. Therefore, even if I was to accept that the site was in a village, I conclude that the proposed development would not represent limited infill in any event.
15. Therefore, for the reasons given, the proposed development would not represent limited infilling in a village and thus would not meet the criteria in paragraph 145 e) of the Framework or Policy DM42.
16. In terms of previously developed land, the evidence indicates that the majority of the appeal site formed part of the previous nursery use which, the Council has previously accepted to be PDL. However, the site also includes land which I understand to have been beyond the boundary of that former use.

⁵ Planning Permission Ref – 17/05531/FUL

17. Even were I to conclude that the site comprised PDL, for the reasons given I have already concluded that the proposed development would not be limited infilling. As there is no detailed information before me to suggest the dwelling would contribute to meeting an identified affordable housing need within the area, the second criteria in paragraph 145 g) would not apply in this case. Insofar as the site comprises PDL, the appropriate test is therefore whether the proposed development would have a greater impact on the openness of the Green Belt than the existing development, as set out in the first bullet point of paragraph 145 g).
18. My attention has been drawn to previous features and structures on the appeal site, that included part of two former nursery buildings and a former spoil heap and a fenced area. I have also been referred to comparisons between the proposed dwelling and those structures and features which formerly occupied the appeal site, and also to figures comparing the cumulative size of the appeal building and the 5 dwellings previously approved⁶ against the cumulative size of those buildings which formerly occupied the nursery site in its entirety. However, those former structures have now been demolished and a large part of the former nursery site redeveloped and, notwithstanding those comparisons drawn, the Framework requirement is nonetheless that any redevelopment of PDL would not have a greater impact on the openness of the Green Belt than the existing development. Therefore, in accordance with the Framework, I have considered this appeal on the basis of the existing development on the appeal site itself, and afford little weight to any buildings or features which may have occupied the site or that wider area previously which have now been removed.
19. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that openness is an essential characteristic of the Green Belt. Openness, or an absence of development, is the counterpart of urban sprawl, as referred to in the recent Supreme Court decision to which I have been directed⁷. Openness can have spatial and visual aspects.
20. During my site visit I observed that the site was largely covered in compacted stone along with signs that vegetation was starting to re-generate by the presence of weeds and grass. There were no buildings present, nor was there any evidence of former structures. Consequently, notwithstanding the relatively limited size of the site and the presence of buildings on other nearby sites, in its existing form the appeal site contributes to openness and, consequently, to the fundamental aim of the Green Belt to keep land permanently open, thus preventing urban sprawl.
21. In contrast, the introduction of the proposed dwelling would result in a large detached house occupying the site, along with attendant parking areas and domestic paraphernalia such as washing lines or children's play equipment. When combined, the footprint, mass and height of the dwelling along with the associated domestic features would inevitably have a significantly greater impact on the openness of the Green Belt compared to the existing development on the appeal site, and that impact would be visible from neighbouring land and Hammersley Lane, as well as from within the site itself.

⁶ Planning Permission Ref – 17/05531/FUL

⁷ R (on the Application of Samuel Smith Old Brewery (Tadcaster) & others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

22. Consequently, the proposal would have a greater impact on the openness of the Green Belt than the existing development. The development would therefore not meet the criteria in Paragraph 145 g) of the Framework. Furthermore, the development would not keep the land permanently open and, having regard to the Supreme Court judgement and the circumstances of the appeal site, I conclude that the development proposed would also conflict with the fundamental aim of Green Belt policy as set out above.
23. Consequently, for the reasons given, the proposed development would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies CP1, CP8 and DM42 as set out above. Inappropriate development is, according to the Framework, harmful to the Green Belt by definition, and should not be approved except in very special circumstances.

Other Considerations

24. I note that the appellant states that the site is close to nearby services in Tylers Green, and reference is made to nearby public transport links. However, even if the site were considered to be in an accessible location, I have attributed little weight to this given that the proposal is for a single dwelling that would not result in a significant increase to the local housing supply.
25. While I have been notified of the Gomm Valley development site beyond the appeal site's rear boundary, the appeal site is in the Green Belt, and remained so in the recently adopted Local Plan, and I have considered the appeal accordingly. Therefore, I have given limited weight to this matter.
26. I have had regard to the letters from neighbouring occupiers and give moderate weight to the comments of those interested parties in support of the proposed housing. However, these do not overcome my concerns.
27. The prospect that fly tipping could ensue if the site is left undeveloped is not a compelling reason to allow the development, as there could be means to avert this. Interested parties have also referred to the possibility of other unauthorised uses taking place on the site. However, the Council would have recourse through its enforcement powers in such an event. Therefore, I attach little weight to those matters.
28. The appellant has indicated that the appeal site would have formed part of the recently approved and constructed housing development⁸ to the north had it not been for prolonged land negotiations which prevented its inclusion in the scheme, and suggests that it would likely have been approved by the Council in that event given the position it took on the previously developed land issue in granting that development. However, I have no compelling evidence before me to indicate that would necessarily have been the case and I afford little weight to this matter.
29. There are no refusal reasons relating to matters such as the design of the proposal, the size of the proposed accommodation or outdoor space, living conditions of existing and future occupiers, ecology, highway safety or parking. Nevertheless, the absence of harm in those other regards is a neutral factor and does not weigh in favour of the proposal.

⁸ Planning Permission Ref – 17/05531/FUL

Green Belt Balance

30. The Government attaches great importance to Green Belts, and the Framework establishes that substantial weight should be given to any harm to the Green Belt when considering any proposal for development within it. In this case, I have found harm to the Green Belt by reason of the proposed development's inappropriateness, and harm to the openness to the Green Belt.
31. Balanced against that are the other considerations discussed above. However, for the reasons given, those other considerations in this case, taken cumulatively, do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would be contrary to Policies CP1, CP8 and DM42 of the Local Plan, and the provisions of the Framework, as set out above.

Conclusion

32. Therefore, for the reasons given I conclude that the appeal should be dismissed.

R E Jones

INSPECTOR