



Appeal Decision

Site visit made on 17 January 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2022

Appeal Ref: APP/K3605/W/21/3276991

Land between 133 – 147 Burwood Road, Hersham KT12 4AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Ashill Land Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2021/1323, dated 12 April 2021, was refused by notice dated 24 May 2021.
 - The development proposed is described on the application form as, "Development of site to provide 3-5 residential units".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal is for permission in principle (PiP). The consent route for which has 2 stages: the first stage (PiP) establishes whether a site is suitable in-principle and the second ('Technical Details Consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages. The scope for the consideration of a scheme for PiP is limited to location, land use, and the amount of development. I have determined the appeal accordingly.

Main Issues

3. The main issues are whether the site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development, with particular regard to:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt; and
 - if the proposal would be inappropriate development, 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 it.

Reasons

Whether Inappropriate Development

4. The appeal site is a parcel of greenfield land which fronts Burwood Road, consisting of approximately 0.26 hectares, which is almost completely enclosed

- by trees and mature vegetation on its frontage. The proposal seeks to provide between 3 to 5 houses with gardens to their rear. The site is within the Green Belt, and is adjacent to its boundary.
5. The National Planning Policy Framework (the Framework) establishes that the construction of new buildings within the Green Belt is inappropriate. There is a closed list of exceptions to this in paragraph 149 of the Framework. One of which relates to 'limited infilling in villages' (paragraph 149 e)). This principle is reflected in Policy DM17 of the Elmbridge Local Plan (adopted 2015) (Local Plan). Policy DM17 provides that, amongst other things, in order to uphold the fundamental aims of the Green Belt to prevent urban sprawl and to keep land within its designation permanently open, inappropriate development will not be approved unless the applicant can demonstrate very special circumstances that will clearly outweigh the harm. Part c. of Policy DM17 relates to previously developed sites and therefore is not directly relevant to this appeal.
 6. It is common ground between the main parties that the site is within the designated 'Suburban Settlement Area' boundary of Hersham as defined in Policy CS1 of the Elmbridge Core Strategy (adopted 2011) (Core Strategy), and that both Policy CS5 of the Core Strategy and the Design and Character Supplementary Planning Document (adopted 2012) refer to 'Hersham Village'.
 7. Notwithstanding this, it was held in *Wood*¹ that whether or not a proposed development constitutes limited infilling in a village is a question of planning judgment which includes an assessment of the position on the ground, and further that while a village boundary as defined in a Local Plan would be a relevant consideration, it would not necessarily be determinative. In this regard, the appellant has provided copies of several appeal decisions which demonstrate the principle that a site does not need to be within (or abutting) a formally designated village settlement as defined within a development plan for it to be treated as a 'village' for purposes of paragraph 149 e). I accept the logic of that premise in principle.
 8. The appellant has referred to a number of potential indicators with respect to whether Hersham constitutes a village for planning purposes. These include the road signage stating 'Hersham', the conservation area being named 'Hersham Village Conservation Area', a name of a political ward being 'Hersham Village', a nearby golf club being named 'Hersham Village Golf Club', and the existence of the 'Hersham Village Society'. However, I doubt that the reference to 'village' within those potential indicators was used with planning policy specifically in mind.
 9. Moreover, whilst I note that amongst the representations before me several local residents have referred to Hersham as being a village, and that appeal decision Ref APP/K3605/Z/17/3183561 mentioned 'Hersham Village', these references have not been explicitly made in relation to the interpretation of the specific text given in paragraph 149 e). Therefore, whilst I have taken all these indicators into account, in my view they only provide limited support for the contention that Hersham is a village for the purposes of paragraph 149 e).
 10. The site is close to a café, a garden centre and a cemetery. A community hall is present in Hersham. The speed limit drops from 40mph to 30mph near the site

¹ *Julian Wood v SSCLG, Gravesham BC* [2015] EWCA Civ 195, as referenced in relation to appeal decision Ref APP/P1805/W/20/3261731 cited by the appellant.

by Turners Lane, and certain street furniture is present nearby, including street lighting, a post box, bus stops, and a bus stop layby. Fencing and walls along parts of the frontage of Burwood Road, and on-street car parking, is also present. The site is not in the open countryside but rather is positioned between existing houses, and residential roads lie nearby. There is an almost continuous run of development extending from the centre of Hersham to the site. I accept that many of these features also exist within villages in England.

11. I observed that Hersham does have an identifiable core which contains a commercial centre. It also has schools, a train station, and a green, amongst other features. Nevertheless, whilst the appellant contends that Hersham is a large / substantial village and has provided population figures drawn from census data, the site and Hersham as a whole is situated within a much larger conurbation, including Weybridge and Walton-on-Thames.
12. Indeed, I observed that, apart from the road signage, there appears to be no obvious physical boundaries or substantial gaps between Hersham and Walton-on-Thames. Instead there exists a largely continuous pattern of residential development which is only broken up by roads and a railway line. In essence, as Hersham is part of a wider conurbation it is of a far greater mass than what would be termed a village for the purposes of paragraph 149 e).
13. As such, in my view, Hersham village exists principally as a theoretical concept, in the same way as many historic villages have been subsumed into larger settlements over time. Based on my observations I am therefore not of the view that, rationally, the site could be defined as being within a village within the terms of paragraph 149 e). The site has no clear affinity with what could readily be discerned on the ground to be a village distinct from anywhere else. I note that the specific term in the Framework is 'limited infilling in villages', and on account of my reasoning above the site is more accurately described as between Hersham and Walton-on-Thames rather than 'in' the former given the prevailing linear and suburban nature of development in the wider area².
14. As I have found that the site is not within a village for the purposes of paragraph 149 e) of the Framework, it is not necessary to consider whether the proposal would represent infilling, nor whether any infilling would be limited.
15. In light of the above, the proposal would conflict with paragraph 149 e) of the Framework. The proposal therefore constitutes inappropriate development in the Green Belt for the purposes of the Framework and Policy DM17 of the Local Plan. Inappropriate development is, by definition, harmful to the Green Belt. Moreover, it follows from the above that the proposal would also undermine the 5 purposes of the Green Belt, in particular the Green Belt's purpose in relation to its assistance in safeguarding the countryside from encroachment, and the checking of unrestricted sprawl of large built-up areas.

Openness

16. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it

² Distinguishing the circumstances here from the circumstances in appeal decision Ref APP/A0665/W/20/3247387, brought to my attention by the appellant in respect of Norley and appeal decision Ref APP/D0121/W/20/3253758, in respect of Long Ashton also.

follows that openness can be harmed even when development is not readily visible from the public realm.

17. Since my assessment relates to the principle of the site for residential development, matters such as height, massing, scale and design are to be considered as part of the Technical Details Consent stage.
18. Nevertheless, considering the greenfield nature of the site, and that the proposal seeks to introduce between 3 to 5 houses on it, it is reasonable to find that the amount of buildings, their potential spread across the site, the accompanying residential paraphernalia, and the likely increase in vehicles entering and leaving the site would all contribute to the proposal having a reducing effect on the openness of the Green Belt. As such, the proposal would cause harm to the openness of the Green Belt.

Other Considerations

19. The site currently is devoid of built development but as only between 3 to 5 homes are proposed, it has not been demonstrated that the proposal would make the most efficient use of the land (with reference to Framework paragraph 124). Limited weight is therefore given to this matter.
20. It is common ground that the Council is currently unable to demonstrate the necessary forward supply of housing sites, or recent delivery, as required by the Framework. In this regard, the proposal has the potential to generate between 3 to 5 homes which would make a positive, albeit limited, contribution to the current undersupply. This would also support the Government's objective of significantly boosting the supply of homes, and would contribute to the mix of housing in the local area. Taking account of the quantum of new housing proposed in the context of the Council's shortfall, I have given this matter moderate weight.

Balancing of Considerations

21. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
22. Cumulatively, I attach no more than moderate weight to the benefits of the proposed development which make up the other considerations. As such, the other considerations do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The proposed development would not therefore accord with the Green Belt aims of Policy DM17 of the Local Plan, or the Framework, as set out above.
23. The lack of a 5 year housing supply means that the policies which are most important for determining the proposal are out-of-date in accordance with paragraph 11 d) of the Framework. However, part i. of paragraph 11 d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. As I have explained, there would be harms to the Green Belt that would not be clearly outweighed. This provides a clear reason for refusing the proposed

development. Therefore, the proposal would not benefit from the presumption in favour of sustainable development in this instance.

Conclusion

24. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR