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# Appeal Decision

Site visit made on 14 June 2022

**by Samuel Watson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4<sup>th</sup> July 2022**

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**Appeal Ref: APP/M4320/W/21/3289226**

**Land at Strawberry Hall, 293 Southport Road, Lydiate, L31 4EB**

- 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 HGG Ltd against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2021/01679, dated 24 June 2021, was refused by notice dated 2 August 2021.
  - The development proposed is for permission in principle for a development of 4 dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) 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.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted<sup>1</sup>. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
4. Following the submission of further information by the appellant, the Council have withdrawn their second reason for refusal regarding the effect of the development on the Ribble and Alt Estuaries Special Protection Area and Ramsar site, and the Martin Mere Special Protection Area and Ramsar Site. I have therefore not considered this matter further.

## Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development.

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<sup>1</sup> PPG Paragraph: 012 Reference ID: 58-012-20180615

## Reasons

6. Paragraph 147 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
7. Subject to a number of exceptions, as listed in Paragraphs 149 and 150, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include limited infilling in villages, and 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. Policy MN7 of A Local Plan for Sefton (the LPS, April 2017) specifically relies on the exceptions as set out within the Framework and is therefore, to this extent, compliant with the Framework.
8. The site is a parcel of land that, although recently cut back at the time of my site visit, showed signs of otherwise having been left to grow naturally. It is bounded on all sides by mature trees, hedgerows and other mature vegetation. The site adjoins the large garden serving Strawberry Hall as well as fields which form part of the open countryside, the site is further separated from nearby buildings by Southport Road and the Leads-Liverpool canal. Beyond the canal is the settlement of Maghull, a large built-up area while, on the appeal site side of the canal are a number of residential buildings which I understand form part of Lydiate.
9. The Framework does not specify that a village must have a settlement boundary, or that only those parts of the village within the boundary are deemed to be a village for the purposes of the exception under Paragraph 149. Therefore, whilst I understand that the appeal site is outside of the settlement boundary for Lydiate this does not necessarily preclude it from being within the village for the purposes of this appeal.
10. I understand Lydiate to be a large built-up area which has formed a contiguous block with Maghull. Whilst this may be the case, I have not been provided with any substantive evidence that the Lydiate is no longer a village in its own right. I have therefore considered it as such. The above mentioned canal forms a defined feature that divides Lydiate from the more sporadic development and predominantly open countryside on the opposite side of the canal. Nevertheless, the development immediately surrounding the appeal site forms an incursion on this side of the canal that, by way of its visual and physical connection, is read as a continuation of Lydiate. Therefore, for the purposes of Framework Paragraph 149, I find that the appeal site is within a village.

11. However, although within a village, the appeal site is an open and undeveloped plot which is visually separated from nearby buildings by open garden land, roads and the canal. The resulting separation is further compounded by the mature trees bounding the site that screen it from being viewed in connection with the built-up area. Consequently, the site reads as a part of the wider, open countryside rather than a gap within the built environment. Therefore, I do not find that the proposal would be infilling for the purposes of Framework Paragraph 149.
12. The appellant has also submitted that the appeal site forms part of the gardens associated with Strawberry Hall and that as such it is previously developed land (PDL). The Framework sets out within its glossary that PDL includes the curtilage of developed land excluding land in built-up areas such as residential gardens. However, I have not been provided with any substantive evidence to demonstrate that the appeal site is within the curtilage of the appeal site. In particular, during my site visit I noted no means of access between the appeal site and Strawberry Hall. Given this, and the degree of visual separation between the appeal site and Strawberry Hall, I find that lacking any evidence to the contrary the site cannot be described as within curtilage of Strawberry Hall for the purposes of this appeal and consequently is not PDL.
13. Even if I were to have found that the site was part of Strawberry Hall's curtilage and PDL, the Framework requires that I consider the effect of the development on the openness of the Green Belt. In this case, the erection of up to four dwellings would, by way of the innate scale of the development, have a greater impact on the openness of the Green Belt than, as it currently stands, an area of open land. Whilst this loss of openness would be limited in regard to the Green Belt as a whole, harm to the Green Belt would nevertheless occur.
14. The proposal would amount to inappropriate development in the Green Belt, this matter carry substantial weight. No other considerations have been submitted in support of the proposal. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. Therefore, the location, use and scale of the proposal would be unacceptable and would conflict with LPS Policy MN7 as outlined above. The proposal would also conflict with the Green Belt aims of Section 13 of the Framework, and in particular Paragraphs 147 to 151. In reaching this decision I have been mindful of the judgement referred to by the appellant<sup>2</sup> as well as the two appeal decisions<sup>3</sup>.

## **Other Matters**

15. I do not have the full details of the pre-application enquiry, DC/2015/01471, before me, so I do not know the full context. However, it is clear that it was for a significantly different proposal as it would have provided 19 affordable homes. Moreover, pre-application advice cannot bind a decision maker in their assessment of a planning application. As a result, I do not find that this enquiry is particularly relevant to the proposal before me, and it has not been determinative in my consideration. I have been mindful of the more recent advice sought under pre-application enquiry DC/2021/00541, where I note that the Council concluded in a similar manner to their decision for the appeal scheme.

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<sup>2</sup> Wood v SOSCLG and Gravesham [2015] EWCA civ 195

<sup>3</sup> APP/R0660/W/17/3170279 and APP/N5090/W/16/3151579

## **Conclusion**

16. The proposal would conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, and for the reasons given above I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR