



Appeal Decision

Site visit made on 18 June 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2024

Appeal Ref: APP/K0425/W/23/3330688

Land west of Hammersley Lane, Tylers Green, Buckinghamshire HP10 8HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by South Point Projects / NK Groundworks against the decision of Buckinghamshire Council - West Area (Wycombe).
- The application Ref is 23/05800/PIP.
- The development proposed is an application for permission in principle for residential development of two residential units on land within the Green Belt, construction of footpath from Hammersley Lane into land allocated under Policy HW6 of the Wycombe Local Plan and management arrangements for green infrastructure on land allocated under Policy HW6 of the Wycombe Local Plan.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. National Planning Practice Guidance (PPG) advises that permission in principle is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle (PIP)) establishes whether a site is suitable in-principle and the second (technical details consent (TDC)) is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for PIP is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent TDC application if PIP is granted. I have determined the appeal accordingly.
4. The Council has confirmed that sufficient ecological information has been received in the form of a Preliminary Ecological Appraisal. Any subsequent approval would be subject to the provision of suitable conditions to ensure that suitable ecological mitigation measures are undertaken. As such, the Council no longer contests the second reason for refusal.
5. As part of the appeal the appellant has submitted an amended drawing (number C4655/100_06 Rev -) highlighting the red and blue line boundaries. The amended drawing re-routes the proposed footpath at the rear of the site to ensure that impacts on the protected woodland area are minimised. I have given due consideration to guidance in the 'Procedural Guide: Planning Appeals - England' (2023), and the 'Wheatcroft Principles' referred to in the guidance²,

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

² Bernard Wheatcroft Ltd v SSE and Another (1982) 43 P. & C.R. 233.

which addressed the matter of amended plans being submitted with and appeal, along with other case law³ in deciding whether to accept the revised plan.

6. I consider the proposal before me (should the amended drawing C4655/100_06 Rev - be included), is essentially the same as the scheme that was considered by the Council and therefore that the appeal process is not being used to evolve the scheme⁴. As such I am satisfied that the revision does not alter the proposed development to an extent that anyone involved in the appeal would be prejudiced or impacted should I accept the amended plan. The Council have considered the amended details and have indicated that this would partially alleviate their concerns in respect to the third reason for refusal, albeit they maintain an objection to the impacts of the proposal on securing an extant landscaping scheme secured by condition under a separate permission⁵.
7. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
8. In any event, whilst there are alterations to the Green Belt chapter, the sections that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework as published in December 2023, and any reference to paragraph numbers are to this version.

Main Issues

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

Reasons

Inappropriate development

10. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154.
11. Policies CP1 and CP8 of the Wycombe District Local Plan (WDLP) adopted August 2019 seek to deliver sustainable development, but also to protect the

³ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

⁴ Annex M of the Procedural Guide Appeals

⁵ Buckinghamshire Council - West Area (Wycombe) Planning Ref: 17/05531/FUL

Green Belt from inappropriate development. WDLP Policy DM42 seeks to further manage development in the Green Belt, highlighting that inappropriate development within the Green Belt will not be permitted subject to exceptions. As such the policies are generally consistent with the Framework.

12. The exceptions of most relevance to this appeal are 154.e) limited infilling in villages and 154.g) limited infilling or the partial or complete redevelopment of previously developed land (PDL) providing it would not have a greater impact on the openness of the Green Belt than the existing development. I shall deal with these in turn.
13. The appellant contends that the proposal would infill an area of land as an extension to the Tylers Green village envelope. The appellant also highlights that Tylers Green forms part of the settlement of High Wycombe, a Tier 1 development, which is defined as a Large Urban Area in Appendix C of the WDLP. From the evidence before me the appeal site itself occupies a peripheral location outside the Tier 1 boundary and within an area designated as built-up villages in the Green Belt. Relevant case law⁶ dictates that the village boundary defined on a proposals map should not be determinative where the boundary does not accord with the Inspector's assessment of the extent of the village on the ground.
14. The appeal site is located within a ribbon of development along Hammersley Lane. From my site observations the appeal site occupies a gap between the properties of Hilltop to the south, and Willow House to the north, providing a small buffer of open space between these dwellings. The properties in the area are generally large, detached properties set back from the roadside within spatial plots. The area to the south of the appeal site provides a linear and tighter pattern of development, when compared to the more sporadic appearance of development north of the site as one approaches Tylers Green. Further east and west of the site are relatively open parcels of land.
15. The village of Tylers Green contains local services and facilities, and is located a significant distance to the north of the appeal site, providing a notably denser form of development as one approaches the junction of Church Road from Hammersley Lane. The linear and sporadic nature of development stretching away from Tylers Green along Hammersley Lane provides the appeal site with a peripheral location between the open character to the east and west and the more developed character to the north and south. Given its open and buffer function, in my view the appeal site would appear outside the more densely populated village to the north. As such the site would not fall within a village. This is consistent with a previous Inspectors decision⁷ at the site.
16. For completeness, it is prudent to assess the remaining considerations of whether the proposal would amount to 'infilling' and if so, if it would be 'limited'. Limited infilling is not defined in the Framework. However, I am directed to paragraph 6.222 of the WDLP, which defines limited infill development as *'...at most 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.'* These are logical parameters to have regard to, when defining limited infilling.

⁶ Julian Wood v SSCLG & Gravesham Borough Council [2015] EWCA Civ 195

⁷ PINS Ref: APP/K0425/W/19/3241262

17. It is acknowledged at this stage of the PIP, the plans need only show the indicative site layout, however the submitted plans show the positions of the two detached dwellings, amenity space, proposed footpath, and access to each unit from Hammersley Lane. As stated, the appeal site occupies a gap between the existing dwellings, but unlike the previous appeal scheme, the proposal would occupy the full width at the site. From the limited details on the indicative drawings, the proposal for two detached dwellings could have an appearance similar to the existing dwellings either side. As such, the scheme would infill an existing gap. However, given the specific definition of limited infilling as contained in WDLP DM42, the quantum of development (i.e. two detached dwellings) would be in conflict with this policy.
18. For these reasons, I conclude that the appeal proposal does not constitute 'limited infilling in villages'. It would therefore not meet the exception listed at paragraph 154.e) of the Framework. As the proposal would not be considered 'limited infilling' for the reasons set out above, for completeness I will also need to assess whether the proposal would involve the partial or complete redevelopment of PDL, as set out at paragraph 154.g) of the Framework.
19. The Framework defines PDL, as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. From my site observations, the site is relatively open, albeit the northern section is currently occupied by a conservation charity (Chiltern Rangers) to grow seeds for wildflowers, which I understand is a temporary use. Nevertheless, this part of the site currently has Heras fencing and other temporary structures such as netted tunnels and sheds located on it. Even if I was to consider that the site is PDL, the second limb of paragraph 154.g) requires any redevelopment of such land to not have a greater impact on openness than the existing development.
20. Openness has both spatial and visual aspects and the proposal would introduce a substantial quantum of residential development on to a site which, other than the modest temporary structures, is relatively open and free from any significant permanent development. Therefore, the introduction of built form, as proposed, would have an adverse impact on the openness of the Green Belt in spatial terms.
21. With regard to the visual aspect, the appeal site adjoins existing residential dwellings, thus the impact on the visual openness of the Green Belt would be limited to a degree. Nevertheless, the appeal site occupies a fairly prominent position, visible from public vantage points along Hammersley Lane, thus any increase in built development would be highly visible in the surrounds, providing harm to visual openness, nonetheless. Consequently, I have found that there would be harm to both the spatial and the visual dimensions of the openness of the Green Belt.
22. Bringing these strands together, I find that the proposal does not meet the exception in Framework paragraph 154.e) or the exception in paragraph 154.g) and would conflict with the relevant policies of the WDLP. The proposal is therefore inappropriate development in the Green Belt.

Other considerations

23. I have found that the development constitutes inappropriate development in the Green Belt. I have also found that it would be harmful to the openness of

the Green Belt, harm which carries substantial weight. The Framework is clear 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.

24. The site is located some significant distance from local services and facilities, in particular from the village centre of Tylers Green. Access to Tylers Green on foot or by bicycle would require future occupiers to walk or cycle along Hammersley Lane, which does not have a pavement, and is predominantly unlit, impacting on pedestrian safety⁸. The lack of footpaths or streetlighting would make it less attractive for people to walk or cycle, and especially for small children going to school.
25. The appellant indicates that the creation of a footpath to the rear of the site would be undertaken as part of the development to provide a connection from Hammersley Lane to the open space with the proposed Gomm Valley development⁹. From the evidence before me this would provide a significant public benefit and has been considered as advantageous by the Councils Strategic Access officer, reducing the need for pedestrians to venture into the aforementioned roadway. I acknowledge the Gomm Valley development is an allocated site (HW6) in the WDLP, however I note that the current scheme is at appeal¹⁰ and has yet to be determined. Consequently, whilst I acknowledge that this would provide a significant public benefit, given the uncertainty of the outstanding appeal I give this only modest weight in favour of the scheme.
26. The proposal would also result in some small social and economic benefits, including the support future occupiers would give to local businesses and services. The proposed development would also deliver two new homes on the site relatively quickly, in accordance with the aims and objectives of the Framework. To these benefits I also apportion modest weight given the scale and nature of the proposed development.
27. The appellant has drawn my attention to other schemes which relate to infill development, including one in Marlow¹¹. Based on the limited information before me, it is unclear whether the relationship of the scheme to the village subject to that appeal is the same as that considered here. Nevertheless, the scheme turned on its own merits, and as such I give this example only limited weight, as I cannot be certain it is directly comparable. In any event, each case must be judged on its own merits, and I must determine the appeal based on the evidence before me.

Green Belt Balance

28. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would result in harm to the openness of the Green Belt. Paragraph 153 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt.
29. 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

⁸ Appendix 3 – Appellants Final Comments

⁹ Buckinghamshire Council - West Area (Wycombe) Planning Ref: 22/06485/OUTEA

¹⁰ PINS Ref: APP/K0425/W/23/3332257

¹¹ PINS Ref: APP/K0425/W/17/3188568

by other considerations. As explained above I give modest and limited weight to the other material considerations cited in support of the proposal. However, I conclude these circumstances do not clearly outweigh the harm the scheme would cause.

30. Consequently, very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist. The proposal is therefore in conflict with Policies CP1, CP8 and DM42 of the WDLP and paragraph 153 of the Framework.

Conclusion

31. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be taken other than in accordance with that plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR