



## Appeal Decision

Site visit made on 6 October 2020

**by Chris Forrett BSc(Hons) DipTP MRTPI**

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

**Decision date: 21 October 2020**

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**Appeal Ref: APP/P1940/W/20/3249107**

**2 Church Cottages, Old Uxbridge Road, West Hyde, Hertfordshire WD3 9XP**

- 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 & Mrs Toms against the decision of Three Rivers District Council.
  - The application Ref 19/2303/FUL, dated 30 July 2019, was refused by notice dated 3 February 2020.
  - The development proposed is the erection of a detached dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are whether the proposal would be inappropriate development in the Green Belt (including the effect on the openness of the Green Belt), and the delivery of affordable housing.

### Reasons

#### *Green Belt*

3. Paragraph 133 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 145 and 146, set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.
4. The Appellant has set out that they consider that the dwelling would constitute limited infilling in a village and would therefore be in accordance with the exemption to inappropriate development as set out at paragraph 145e) of the Framework.
5. The Framework does not define what a village is or what would constitute 'limited infilling'. However, infilling could be considered to be development which would close an existing gap in an otherwise built up frontage.
6. Given that the appeal development would be situated between two existing dwellings, it is common ground that the proposal would constitute limited infilling. Given what I observed on site, and the limited nature of the development, I agree.

7. Therefore, the key consideration is whether the site is located within a village for the purposes of paragraph 145e).
8. As I understand it, the site is not located within any defined development boundary. However, case law indicates<sup>1</sup> that whether a site is within a defined village boundary in a Development Plan is not conclusive to determining whether a site is within a village or not. It is for the decision maker to decide whether, as a matter of fact on the ground, the site appears to be in a village.
9. The Council acknowledge that West Hyde has a largely linear form along the eastern side of Old Uxbridge Road albeit that it is split into two parts with an undeveloped area in-between.
10. From what I observed at my site visit, the quantum of development in these two parts is significantly greater than one would expect to have in a small settlement such as a hamlet. Furthermore, the presence of community facilities such as the Church of St Thomas of Canterbury, the West Hyde young people centre, shortbreaks action for children, the Oaks public house, together with businesses such as Elm Lodge, Artemis Tree Services, and SAE logistics on Copper Mill Lane leads me firmly to the view that West Hyde is a village for the purposes of paragraph 145e) of the Framework.
11. In coming to that view, I acknowledge that West Hyde does not have the range of facilities that one would desire to have in a village such as a shop which serves the day to day needs of its residents. However, there are many locations which this also applies. I also acknowledge that there is not a defined centre to the village. However, this is not a determinative indicator as to what constitutes a village. That said, a focal point could be seen as the village centre and in this case this could be The Oaks public house which is located broadly in the geographic centre of the built form of the village at the junction of Copper Mill Lane and Old Uxbridge Road.
12. Considering all of the above, the proposal would accord with the exemption outlined at paragraph 145e) of the Framework, in that it would be limited infilling in a village.
13. In considering the effect on openness, I have had regard to the Lea Valley Regional Park judgement<sup>2</sup>. This sets out that, where development is considered to be not inappropriate in the Green Belt, such development is not to be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. Consequently, it is not necessary to assess the effect of the development on the openness of the Green Belt any further.
14. For the above reasons the development would not be inappropriate development in the Green Belt and would be consistent with the aims and objectives of the Framework and Policy CP11 of the Three Rivers Local Development Framework Core Strategy (2011) (CS) and Policy DM2 of the Three Rivers Local Plan Development Management Policies Local Development Document (2013).

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<sup>1</sup> Wood v SCLG [2015] EWCA Civ 195

<sup>2</sup> Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

*Affordable housing*

15. The Framework at paragraph 63 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas where policies may set out a lower threshold of 5 units or fewer.
16. That said, there is clear evidence to suggest that there is an acute need for affordable housing in the Three Rivers District and there have been several appeal decisions which supported this view. The Appellant has not disputed this need and has indicated that there is a willingness to make an affordable housing contribution for off-site provision. In summary, I agree that there are special circumstances which justify the provision of affordable housing below the Framework's suggested threshold.
17. In lieu of on-site provision, the Council has suggested that a sum of £47,300 should be paid so that affordable housing can be provided elsewhere. However, the Appellant has not provided a legal agreement to deliver such a financial contribution and as such the development would not make the necessary provisions to assist in the delivery of much needed affordable housing.
18. As a result, the proposal would be contrary to Policy CP4 of the CS which amongst other matters seeks to increase the provision of affordable homes including by means of a commuted sum payment for sites of between one and nine dwellings.

**Conclusion**

19. I have also had regard to the obvious benefits in relation to the provision of a much-needed new dwelling. However, the benefits of this are outweighed by the lack of provision for affordable housing. Therefore, taking all matters into consideration, I conclude that the appeal should be dismissed.

*Chris Forrett*

INSPECTOR