



Appeal Decisions

Site visit made on 27 August 2019

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Date of decisions: 11 September 2019

Appeal A Ref: APP/M3645/C/19/3221419

Appeal B Ref: APP/M3645/C/19/3221420

Appeal C Ref: APP/M3645/C/19/3221421

Land at Buttons Mead, Tandridge Lane, Lingfield RH7 6LW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeals are made by Mr Colin James Graves (Appeal A), Ms Sharon Delfina Graves (Appeal B) and Ms Francesca Emily Bowden-Graves (Appeal C) against an enforcement notice issued by Tandridge District Council.
 - The notice, No.1 (2019), was issued on 14 January 2019 under ref. ENF/2018/106.
 - The breach of planning control as alleged in the notice is:
"Construction of a detached garage not in accordance with the plans approved in planning permission reference TA/2017/2017. The garage as built differs from the garage for which planning permission was granted in that the roof height has been increased by 1.95metres, 3 velux-style windows have been inserted, an external staircase has been erected and a door has been inserted leading from the staircase into the garage at first floor. This development is in the approximate position outlined and cross-hatched in black on Plan A."
 - The requirements of the notice are to:
*"1. Reduce the height of the building by lowering the roof of the building to accord with planning permission TA/2017/2017 decision notice drawing Number 13 Rev B.
2. Remove all velux-style windows,
3. Remove the exterior staircase,
4. Remove the first floor door in the flank elevation,
5. Remove from the site all building waste material resulting from the above works."*
 - The period for compliance with these requirements is 6 months.
 - Appeals A, B and C are proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since the appeals have been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act in respect of each appeal.
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Appeal D Ref: APP/M3645/D/18/3213930

Land at Buttons Mead, Tandridge Lane, Lingfield RH7 6LW

- 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 Colin Graves against the decision of Tandridge District Council.
 - The application ref. TA/2018/1270, dated 15 June 2018, was refused by notice dated 31 August 2018.
 - The development proposed is *"Erection of detached triple bay garage with first floor accommodation and external staircase (Retrospective)"*.
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Decisions

Appeals A, B and C

1. The appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal D

2. The appeal is dismissed.

Background, matters of clarification and applications for costs

3. The 2-storey detached dwelling house at Buttons Mead stands in a sizeable residential garden on the western side of Tandridge Lane. The appeal site is situated within an area designated as Green Belt. The appeals concern a detached garage building which has been erected just inside the southern boundary of the dwelling's front garden.
4. Planning permission was granted for various householder developments at Buttons Mead in November 2017 under ref. TA/2017/2017, one of which was a detached triple-bay garage. There is no dispute that the garage which has been built departs from what was approved. The enforcement notice, the subject of Appeals A, B and C, attacks the development as built. The retrospective planning application, the subject of Appeal D, sought to keep the detached garage building as constructed.
5. The detached garage building now on site is laid out over 2 floors. Plans submitted with application ref. TA/2018/1270 indicate that it is 10.161 m wide, 6.561 m deep and 6.450 m high to the ridge. The external walls are clad in timber above a base of red bricks. Red plain clay tiles cover the roof. The ground floor contains 3 parking spaces and some shelves for storage. The first floor is laid out with various items of gym equipment, lit by 3 roof lights in the south-facing roof slope and accessed via an external metal staircase attached to the western gable end.
6. Applications for costs were made by the Council against the appellants and by the appellants against the Council. These applications are the subject of separate decisions.

Appeals A, B and C, the appeals on ground (a) and Appeal D, the section 78 appeal

7. Guidance in the National Planning Policy Framework (the Framework) sets out the government's policy on Green Belts. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight is to be given to any harm to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from a proposal, is clearly outweighed by other considerations.
8. The main issue is therefore whether the detached garage building as constructed amounts to inappropriate development in the Green Belt, and if

so, 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 required to justify the development.

Whether inappropriate development

9. The development plan includes the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (TLP). TLP Policies DP10 and DP13 broadly reflect the Framework's stance that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. The garage building does not meet any of the exceptions to this policy of restraint as set out in paragraph 145 of the Framework or in TLP Policy DP13.
10. This would include the exception at paragraph 145 g) of the Framework (and covered also, in part, in TLP Policy DP13) being relied upon by the appellants. This allows for:

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

 - not have a greater impact on the openness of the Green Belt than the existing development; or*
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*
11. The Courts have established that a private residential garden which is not in a built-up area will constitute previously developed land. This locality does not have anything to mark it out as a built-up area. The development may therefore be viewed as the partial redevelopment of previously developed land. However, the previous use of the site of the detached garage building as an open area of front garden would have had only a negligible impact on the openness of the Green Belt. In contrast, the detached garage building has quite a significant impact upon the openness of the Green Belt in terms of volume and physical presence. That impact is also manifest in a visual sense, being very noticeable when approaching along Tandridge Lane from the north in views over the vehicular entrance, hedge and fencing. The development has materially reduced the openness of the Green Belt and conflicts with the first limb of paragraph 145 g) of the Framework. The second limb cannot be satisfied since the development is plainly not aimed at meeting an identified affordable housing need.
12. TLP Policy DP14 deals with new garages or other ancillary domestic buildings in the Green Belt. Paragraph 14.1 of the TLP says that such garages and buildings constitute inappropriate development in the Green Belt. However, it also explains that there may be situations where such buildings would be reasonable and compliance with the 4 criteria in the policy would in effect provide the very special circumstances needed to justify a grant of planning permission. I turn to these criteria below under "*Other considerations*". As it is, applying the Framework and TLP Policies DP10 and DP13, I find that the detached garage building now on site amounts to inappropriate development in the Green Belt.

Harm

13. Inappropriate development is, by definition, harmful to the Green Belt.
14. There is also the actual harm to the openness of the Green Belt as identified above. The Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
15. Buttons Mead lies within an area of countryside. Small clusters of sporadic developments are found along Tandridge Lane hereabouts, of which Gays Cottages on the eastern side of the road opposite the appeal site and the group of equestrian and residential buildings behind the house at Buttons Mead are just 2 examples. Nonetheless, when viewed as a whole this locality has a resolutely rural sense of place and the large open front garden of Buttons Mead makes a positive contribution to that character.
16. Notwithstanding the fencing, entrance gates and vegetation on the roadside boundary of the appeal site and the degree to which the garage building is set in from that boundary, the detached garage stands out as a prominent structure in this landscape on the approach to the site along Tandridge Lane from the north. This is on account of the siting forward of the main property, the ridge height of 6.45 m and the size, scale, massing and design of the steeply pitched roof. To my eyes, the building has the physical proportions of, say, a chalet bungalow and such proportions are difficult to absorb in this landscape without making it appear more urbanized. Only the very upper parts of the roof have hipped ends. The building is an unduly dominant feature and the installation of roof lights and an external metal staircase only serve to emphasize its 2-storey built form, overall height and prominence.
17. I am also concerned that the building would be even more visible in public views during the months of the year when the roadside vegetation has far less or is devoid of leaf cover. There may be more than glimpsed views from Gays Cottages opposite during those months. The development has an adverse visual impact upon the character, appearance and distinctiveness of the locality and does not integrate effectively with its surroundings. This fails to respect key environmental aims within TLP Policy DP7 and Tandridge District Core Strategy Policies CSP 18 and CSP 21.

Other considerations

18. Compliance with TLP Policy DP14 would be an extremely important other consideration to weigh in the planning balance. However, I judge that the development fails to meet the first 2 of the 4 criteria in this policy. The relevant parts of the policy state: *Where planning permission is required, new ancillary domestic buildings in the curtilage of dwellings located in the Green Belt (outside the Defined Villages) will be permitted provided they: 1. Do not constitute a dominant feature and are not excessive in size having regard to the size of the dwelling they are to serve; 2. Do not detract from the rural character or appearance of the locality.*
19. Given the considerable size and height of the host dwelling, the comparative details shown on drawing no. RH1 Rev. B and the reasonable provision of 3 covered parking spaces below a home gym, I am not inclined to the view

that the garage building is excessive in size purely having regard to the size of the dwelling it is to serve. However, from the considerations I set out across paragraphs 15-17 above, readers will be aware that I have already found that the building constitutes an unduly dominant feature and has an adverse impact on the rural character and appearance of the locality. Therefore, the first criterion within TLP Policy DP14 is not fully satisfied and there is conflict with the second one.

20. The extant planning permission ref. TA/2017/2017 represents a fallback and is a material consideration. There are however important differences. That scheme was for a single storey building measuring 9.71 m wide, 6.50 m deep and only 4.50 m high to the short ridge of a fully hipped and more modestly proportioned roof, without any roof lights or external staircase. The noticeable differences in height, size and bulk between the approved and built garage buildings are clearly illustrated on the appellants' massing study at Figure 8 of their appeal statement. It comes as no surprise that the Council deemed the extant scheme to be compliant with the relevant development plan policies when read as a whole.
21. Comparisons with the garage building close to the roadside at Blackgrove Barn, Blackgrove Farm are not appropriate as I understand from third parties that it was built on the same footprint and to the same height as the original building which it replaced.
22. I appreciate that the development does not give rise to any other planning harms, including adverse impacts upon the living conditions of neighbouring occupiers. However, the absence of other planning harms is not a positive factor in favour of the development and so only attracts neutral weight.
23. The appellants suggest Mr Cruise, a local resident, may be supportive of the garage building as constructed. He did not respond to the notification letter sent to his property by the Council at the time the retrospective planning application was being considered. Paragraph 2.9 of the appellants' final comments on this matter seems to be incomplete, but I cannot approach a third party for comments during these appeal proceedings.
24. The appellants have presented 2 previous appeal decisions. At The Garth (Tandridge District Council), the Inspector found that the erection of an orangery would have a minimal effect on openness, partly because it would be away from any public vantage point, make a positive contribution to the setting of a grade II* listed building and wholly comply with an emerging version of TLP Policy DP14. At Moat Lane House (Chiltern District Council), the Inspector recorded that an outbuilding would replace 3 existing similar buildings, have a relatively shallow roof pitch and be located on a site where there was a real possibility that the exercise of permitted development rights would have a more adverse impact on the openness of the Green Belt.
25. In each of those appeals the considerations set out above were found to outweigh the totality of the harm to the Green Belt and amounted to the very special circumstances needed to justify the respective developments. I cannot draw any clear parallels from these cases to the development the subject of the appeals before me. It is an established planning principle that each application and appeal should be judged on their own particular merits.

The balance of considerations and conclusions

26. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and loss of openness. Also to be weighed in the balance is the harm to the character and appearance of the locality which attracts significant weight. It is apparent that the other considerations do not clearly outweigh the totality of the harm that is caused and so the very special circumstances necessary to justify the development do not exist. There is also conflict with the development plan and I find no material considerations of sufficient weight to justify a grant of planning permission. The objections to the development could not be fully overcome by the imposition of planning conditions. Having taken into account all other matters raised, for Appeals A, B and C, I conclude that the appeals on ground (a) should fail and that the deemed planning applications should be refused, and for Appeal D, I conclude that the appeal should be dismissed.

Andrew Dale

INSPECTOR