
Appeal Decision

Site visit made on 8 January 2021

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2021

Appeal Ref: APP/M3645/W/20/3256736

Land adjacent to Shaw Road, Tatsfield

- 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 Nick Gregory against the decision of Tandridge District Council.
 - The application Ref TA/2019/2216, dated 14 December 2019, was refused by notice dated 27 April 2020.
 - The development proposed is described as 'erection of residential dwelling as limited infilling within a village'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Nick Gregory against Tandridge District Council. That application is the subject of a separate Decision.

Procedural Matter

3. There is disagreement between the appellant and the Council as to whether the proposed development firstly would or would not amount to infill development within the village of Tatsfield and secondly whether it would be inappropriate or not inappropriate development within the Green Belt having regard to development plan and national planning policy. With respect to the relevant development plan policy, the Council's first reason for refusal cites conflict with Policies DP10 and DP13 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 of 2014 (the TLPDP).
4. Policy DP13 (Buildings in the Green Belt) in addressing infill development makes a cross reference to Policy DP12 (Development in Defined Villages in the Green Belt). However, the Council did not include a copy of Policy DP12 with its appeal Questionnaire. At my request and to assist my understanding of the submissions made by the parties the Council was requested to submit a copy of Policy DP12, together with a copy of the Inspector's examination report for the TLPDP.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;

- the effect of the development on the character and appearance of the area; and
- whether the site would be an acceptable location for a dwelling, having regard to the accessibility to everyday local facilities and services by a range of modes of transport.

Reasons

Whether inappropriate development in the Green Belt

6. The development would involve the construction of a chalet bungalow within a plot of land on the northern side of Shaw Road. The site is situated between a recently constructed bungalow to the east named Thistle Cottage and the rear gardens/grounds of two dwellings to the west named Oak Cottage and Oakleigh.
7. The site is located in the Green Belt and lies just beyond part of the northern settlement boundary for Tatsfield, identified by the Council on the Policy Map that accompanies the adopted development plan. The adopted development comprises the Tandridge District Core Strategy of 2008 (the TDCS) and the TLPDP.
8. Policy DP10 of the TLPDP states '*Within the Green Belt planning permission for any inappropriate development which is, by definition, harmful to the Green Belt, will normally be refused. Proposals for inappropriate development will only be permitted where very special circumstances exist ...*'. The provisions of Policy DP10 are consistent with the National Planning Policy Framework of 2019 (the Framework) which states that '*Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*' (paragraph 143) and '*When considering any planning application, local planning authorities should ensure substantial weight is given to any harm to the Green Belt ...*' (paragraph 144).
9. Policy DP13 of the TLPDP lists seven categories of built development that may be considered as being not inappropriate development within the Green Belt (exceptions A to G). Under exception C '*Limited infill development within the Defined Villages ...*' may be considered as being not inappropriate development. The supporting text for Policy DP12 explains that to differentiate larger settlements (villages) as being suitable as locations for some new development from smaller settlements, nine locations including Tatsfield, have been identified as defined villages for the purposes of Policy DP12. Tatsfield is therefore a village where infilling may be considered as being not inappropriate development under exception C under Policy DP13.
10. Paragraph 145 of the Framework similarly identifies seven exceptions for built development that may, in certain circumstances, be regarded as being not inappropriate in the Green Belt. The fifth exception (e) under paragraph 145 concerns '*limited infilling in villages*'. The Framework, however, does not define either village or limited infilling.
11. Attention has been drawn to the Court of Appeal's consideration of the meaning of the Framework's reference to limited infilling in villages, in the case of *Julian Wood v the Secretary of State for Communities and Local Government, Gravesham Borough Council* [2015] EWCA Civ 195 (the Wood case). The Court of Appeal found in the Wood case that the boundary of a

village defined for a local plan would not necessarily be determinative in considering whether new built development would or would not represent infilling for the purposes of what was the fifth bullet point under paragraph 89 of the original version of the Framework (now exception (e) under paragraph 145). The Court of Appeal also expressed the view that regard should be paid to the 'position on the ground'. Depending on the position on the ground the court found it would be a matter of judgement for the decision maker to reach a conclusion as to whether a proposal would or would not be limited infilling in a village.

12. While the appeal site is located beyond the settlement boundary for Tatsfield it is situated between dwellings to the east and west, with other dwellings nearby to the south in Greenway and Westmore Road. Given that the appeal site is so close to so many other dwellings and the northern part of Tatsfield is residential in character, I consider that that the position on the ground is one of the appeal site forming part of the village. I saw nothing while undertaking my site visit to suggest that this site is of a size or physical character that clearly differentiates it from the rest of Tatsfield, such that it should not be looked upon as forming part of the village.
13. I therefore consider that the appeal development would amount to limited infilling within a village. Given that, I conclude that the development would be not inappropriate development within the Green Belt for the purposes of exception C of Policy DP13 of the TLPDP and exception e) of paragraph 145 of the Framework.
14. As I have concluded that the development would be not inappropriate development in the Green Belt there is no requirement for me to consider its effects upon the openness of the Green Belt. However, as the Council's second reason for refusal raises a non-Green Belt visual concern, there is a need for me to consider the development's effect on the character and appearance of the area and that is something I now turn to.

Character and Appearance

15. The area to the north of Shaw Road, particularly to the east and west of the appeal site, is characterised by dwellings (Oakdell, Thistledown, Thistle Cottage, Oak Cottage and Oakleigh) that follow a very loose and far from coherent layout. Those dwellings occupy generally spacious plots, commensurate with them being situated at the transmission between the more intensely developed streets of Greenway and Westmore Road to the south and the generally open countryside to the north of Shaw Road.
16. Although the proposed dwelling would be quite modest in scale it would occupy a plot that would be narrower than the properties on the northern side of Shaw Road. I therefore consider that this development would lack the spaciousness exhibited by the existing dwellings on the northern side of Shaw Road. The proposed dwelling would also encroach into the notable gap between Thistle Cottage, Oak Cottage and Oakleigh and I consider that would result in an appreciable reduction in the looseness of the layout that characterises this street, to the detriment of the appearance of the area within the immediate vicinity of the site. I therefore share the Council's view that this development would have an undesirable urbanising effect.

17. I recognise that Thistle Cottage is a property of quite recent construction and occupies a part of the grounds of Thistledown which was previously not occupied by a building. However, the Council has explained that when planning permission TA/2015/660 was granted for the replacement of Thistledown and the construction of Thistle Cottage that was on the basis of there being an overall reduction in both the footprint and volume of built development across the whole of Thistledown's grounds¹. The consideration of any changes in the scale of built development and any effect on Green Belt openness being consistent with the Council's assessment under what was then the sixth exception listed in paragraph 89 of the Framework² in relation to the redevelopment of previously developed land in the Green Belt. The circumstances that gave rise to planning permission being granted for Thistle Cottage are therefore not comparable and in any event the construction of that dwelling and the replacement of Thistledown have maintained the very loose pattern of development characterising the northern side of Shaw Road. The latter being something that I consider the appeal development would not achieve.
18. I consider that the development would not be respectful of its context and I therefore conclude that it would have an unacceptable effect on the character and appearance of the area. I therefore consider that the development would be contrary to Policy CSP18 of the TDCS and Policy DP7 of the TLPDP because it would not be respectful of its local context and would fail to integrate effectively with its surroundings, lacking the spacing that characterises the northern side of Shaw Road. I am further of the view that the development would not be sympathetic to local character or improve the quality of the area and that in those regards there would be conflict with paragraphs 127 and 130 of the Framework. I consider that the harm to the character and appearance of the area arising from this development would be a substantial adverse effect.
19. The second reason for refusal contends that there would be conflict with Policy CSP21 (Landscape and Countryside) of the TDCS. However, I consider that the appeal site of itself contributes only to a very limited degree to the landscape quality of the area. I am therefore of the view that there would be no conflict with Policy CSP21.

Suitability of the location for a dwelling in accessibility terms

20. Tatsfield is largely residential in character and it is a village where there is limited access to everyday local facilities and services other than by using private motor vehicles.
21. The occupiers of the new dwelling would therefore be likely to be heavily dependent on private motor vehicle usage when accessing everyday local facilities and services. In transportation terms the vehicular activity associated with this development would not be particularly sustainable, albeit modest in scale. However, I consider that the access to everyday facilities and services for the occupiers of the proposed dwelling would be comparable with that for the occupiers of the recently constructed Thistle Cottage and the numerous other dwellings across much of Tatsfield.

¹ The officer report for application TA/2015/660 contained in Appendix 1 to the appellant's appeal statement and in the Council's appeal statement

² Now the seventh exception under paragraph 145 of the Framework

22. Policy CSP1 of the TDCS in promoting sustainable patterns of travel, indicates that development will primarily be directed towards the built up areas of the larger (Category 1) settlements of Caterham, Oxted, Warlingham and Whyteleafe, where there is a choice of modes of transport available. Additionally, development that would be 'appropriate to the needs of rural communities within larger rural settlements and Green Belt Settlements (Category 2 settlements), such as Tatsfield, may be acceptable when it would involve infilling or relates to sites allocated for affordable housing.
23. The development would give rise to some conflict with Policy CSP1 because it would be outside the settlement and its occupiers would have limited access to a choice of modes of transport. However, in accessibility terms I consider there would be very little to differentiate the degree of accessibility for the occupiers of the proposed dwelling compared with the occupiers of the many other homes in the rest of Tatsfield, regardless of whether the latter homes are or are not within the settlement boundary. I am not persuaded that the emphasis on sustainable development in accessibility terms has changed significantly since August 2015, when the planning permission was granted for Thistle Cottage, to justify a different approach being taken for the appeal development.
24. I therefore conclude that with regard to the accessibility to everyday local facilities and services by a range of modes of transport, this would be an acceptable location for a dwelling. Accordingly, I consider the conflict with Policy CSP1 would not be of such significance as to warrant the withholding of permission in this instance. I consider that my finding in this regard is consistent with the guidance in paragraph 103 of the Framework which states '*... Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes ... However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.*'
25. Policy DP1 of the TLPDP indicates that the Council in considering new development will take a positive approach, reflecting the presumption in favour of sustainable development stated in the Framework. As I have found that in accessibility terms this would be an acceptable location for a dwelling, I consider that in this regard there would be no conflict with Policy DP1 of the TLPDP.

Planning balance and conclusions

26. Above I have concluded that the development would have a substantial adverse effect upon the character and appearance of the area. That adverse effect would give rise to conflict with Policy CSP18 of the CS and Policy DP7 of the TLPDP. I consider those development plan policies are consistent with the national policy set out in Section 12 of the Framework, which amongst other things requires new development to improve the character and quality of an area. I consider that the development's harmful character and appearance effects attract very substantial weight and importance in the planning balance.
27. I have concluded that the development would, in Green Belt terms, amount to acceptable infilling within a village and would not be inappropriate development in the Green Belt and would thus accord with Policy DP13 of the

TLPDP. A consequence of that conclusion is that there is no need for me to consider firstly whether or not there would be an effect on the Green Belt's openness and secondly whether there are any very special circumstances justifying development within the Green Belt. I have also found that in terms of access to everyday local facilities and services by a range of modes of transport, while there would be some conflict with Policy CSP1 of the TDCS that would not be of such significance as to warrant the withholding of planning permission. Those are factors weighing significantly for the development.

28. While the proposed development would accord with a number of the development plan's policies, I nevertheless consider this development would be in conflict with the development plan when taken as a whole.
29. The Council accepts that it cannot currently demonstrate a five year supply of deliverable housing sites. The shortfall in the supply being significant, given that it has been put at 1.93 years by the Council³. Accordingly, under the provisions of paragraph 11 of the Framework, most particularly sub-paragraph d)ii, consideration needs to be given as to whether the presumption in favour of granting planning permission for sustainable development should be applied.
30. The provision of an additional dwelling would assist with increasing the supply of housing in the Council's area, while providing some support for the vitality of the area. There would therefore be some economic and social benefits associated with this development arising from the construction and occupation of the new dwelling, resulting in some compliance with the policy stated in the Framework.
31. However, this development's contribution to boosting the supply of housing in the Council's area would be extremely small. I am also of the view that because of this development's scale it would make a very small contribution to the area's vitality.
32. I have explained above that I consider the development's appearance would give rise to unacceptable conflict with the policy contained in Section 12 of the Framework. I am of the view that there would be significant conflict with the policies in the Framework, when taken as a whole, and that the adverse impacts of the development would significantly and demonstrably outweigh its benefits resulting in this being an unsustainable form of development.
33. I am therefore of the view that there are no considerations indicating that a decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR

³ As mentioned in the officer's report