



Appeal Decision

Site visit made on 26 January 2021

by S M Holden BSc(Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th February 2021

Appeal Ref: APP/M3645/W/20/3257447

65 Stoneleigh Road, Limpsfield RH8 0TP

- 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 Bailey against the decision of Tandridge District Council.
 - The application Ref TA/2020/856, dated 14 May 2020, was refused by notice dated 16 July 2020.
 - The development proposed is the erection of an additional 3 bedroom dwelling in the side garden to No 65 Stoneleigh Road.
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Decision

1. The appeal is allowed and planning permission is granted for an additional 3 bedroom dwelling in the side garden at 65 Stoneleigh Road, Limpsfield RH8 0TP in accordance with the application Ref: TA/2020/856, dated 14 May 2020, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - its effect on the character and appearance of the area;
 - its effect on the living conditions of the occupants of No 65 in relation to overshadowing and overbearing appearance.

Reasons

Inappropriate development

3. Stoneleigh Road is a residential street in the small settlement of Limpsfield Chart. It is characterised by a mix of detached and semi-detached dwellings set in modest plots. However, the settlement does not have any defined boundary, so for the purposes of planning policy the site lies in the countryside in an area designated as Green Belt. No 65 is unusual insofar as most of its garden lies to the side of the dwelling. The appeal site is this side garden in which permission is sought to erect a detached dwelling.
4. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies, adopted 2014 (Local Plan) states that inappropriate development is, by definition, harmful to the Green Belt and will normally be refused. Proposals involving inappropriate

development will only be permitted where very special circumstances exist. This reflects paragraph 143 of the Framework. Policy DP13 of the Local Plan sets out the Council's approach to the assessment of buildings in the Green Belt. This is broadly consistent with paragraph 145 of the Framework which states that the construction of new buildings should be regarded as inappropriate, subject to a list of specific exceptions. Policy DP13 sets out these exceptions in detail, two of which are relevant to this case.

a) Limited infilling in villages

5. The appeal site is a gap in an otherwise built-up frontage and is surrounded on every side by residential development. The site is of a limited size and scale and it would therefore be reasonable to consider the erection of a building on it as 'limited infilling'. However, for any such infilling to be acceptable, it is also necessary to consider whether or not Limpsfield Chart is a 'village'.
6. Exception C of Policy DP13 states that limited infilling is permitted within Defined Villages in accordance with Policy DP12. Policy DP12 provides a list of nine Defined Villages and a series of criteria to assess development proposals within them. It does not include Limpsfield or Limpsfield Chart and is therefore not directly applicable to this case. However, the supporting text to that policy provides explains that it has restricted the number of villages which are considered suitable for infilling following a two-stage Sustainability Appraisal of all its Green Belt Settlements undertaken between 2011 and 2013. Other than the nine Defined Villages all other villages in the Green Belt are not considered to be suitable for infilling. As Limpsfield Chart is not one of these Defined Villages, the proposal conflicts with the exception set out in Policy DP13.
7. However, exception C of Policy DP13 is more restrictive than the equivalent exception set out in paragraph 145 e) of the Framework, which simply states 'limited infilling in villages.' The Framework does not provide any definition of a village. However, case law¹ which post-dates the adoption of the Local Plan, has determined that whether or not a proposal constitutes limited infilling in a village is a matter of planning judgment taking account of the situation on the ground.
8. Limpsfield Chart is a small settlement with residential development largely contained within the area enclosed by Ridlands Rise, Ridlands Lane, Tally Road and Stoneleigh Road. Although it does not have an obvious centre, it has a pub, a church, a village hall and cricket club. It therefore offers a limited range of services and community facilities even though it does not have a shop or school. Its compact and contained layout provides a sense of cohesion and clearly separates it from the surrounding open countryside. On this basis, it seems to me that Limpsfield Chart is a village in the ordinary meaning of the word.
9. Therefore, even though the site is not within a Defined Village as required to be by exception C of Policy DP13, the proposal would meet the exception of being limited infilling in a village set out in 145 e) of the Framework.

b) Partial or complete redevelopment of previously developed land (PDL)

10. Exception G of Policy DP13 states that limited infilling or the partial or complete redevelopment of PDL sites in the Green Belt outside Defined Villages may be

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

acceptable. However, this is subject to the proposal not having a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. This aligns almost entirely with the equivalent exception set out in paragraph 145 g) of the Framework.

11. As the appeal site is not within a built-up area with a settlement boundary or within a Defined Village, the garden of No 65 is not excluded from the definition of PDL set out in the Framework. However, if a new dwelling was to be constructed on the garden there would be a material loss of openness. Consequently, the proposal fails to comply with the requirement of either Policy DP13 G or the exception of paragraph 145 g) of the Framework.

c) Findings

12. I have found that the proposal, which is not in one of the Defined Villages identified in Policy DP12 of the Local Plan, would conflict with the development plan's exceptional reasons for permitting a new building in the Green Belt.
13. However, as I have found Limpsfield Chart to be a village in the ordinary meaning of the word, the proposal would comply with the exception set out in paragraph 145 e) of the Framework which permits limited infilling in villages. Furthermore, the erection of a dwelling on this site would not conflict with any of the five purposes for which the Green Belt is protected. In particular, due to its location surrounded by residential development and within a continuously built-up frontage, it would not result in any encroachment into the countryside.
14. In the particular circumstances of this case, I consider that the provisions of the Framework and my observations on the ground are material considerations that outweigh the conflict with the development plan in relation to this main issue.
15. I therefore conclude that the proposal would not be inappropriate development.

Character and appearance

16. Stoneleigh Road is characterised by dwellings that are set back from the street behind modest front gardens, many of which are enclosed by hedges and low-level fencing. The dwellings are regularly spaced with modest gaps separating them. There is an anomaly in the street scene as the gap between No 65, a two-storey dwelling and No 69, a bungalow, is significantly larger than those elsewhere in the street. It could be said that this gap contributes to a sense of openness and spaciousness to the area. However, a tall, mature hedge along the roadside boundary almost completely obscures it from public view. As the hedge provides privacy to the existing garden of No 65 it is highly likely to be a permanent feature. This significantly reduces the importance of the gap in the street scene. In my view its loss would not cause unacceptable harm to the character and appearance of the wider area.
17. The proposal would occupy much of the space between Nos 65 and 69 but would enable gaps between these adjacent buildings to be of a similar order to those that exist elsewhere in the street. A section of the hedge would be lost to provide the dwelling with a separate access. However, a significant portion of the hedge could be retained, and a parking space provided behind it in front of the proposed dwelling. This would be consistent with the use of front gardens elsewhere in Stoneleigh Road, the hedge would continue to contribute to the sylvan appearance of the street and its retention could be secured by condition.

18. Both No 65 and the new dwelling would have shallow rear gardens as the plots would be smaller than those elsewhere in the street. However, the plans show that the existing garage at No 65 would be removed which would enable the residual garden area to be enlarged. Nos 63 and 69 also have shallow rear gardens. In this context the plots and gardens for No 65 and the new dwelling would not appear unduly cramped, or sufficiently at odds with the pattern of development in the area, to cause the scheme to fail.
19. The main ridge of the proposed dwelling would be a little lower than that of No 65, but taller than that of the adjacent bungalow. As the height of the dwellings along this side of Stoneleigh Road is not uniform, I am satisfied that this arrangement would appear appropriate in its context.
20. I therefore conclude that the proposal would not significantly harm the character and appearance of the area. The proposal would comply with saved Policy CSP18 of the Tandridge District Core Strategy (Core Strategy) and Policy DP7 of the Local Plan which requires development to be in keeping with the prevailing streetscape and to be acceptable in terms of its form, bulk, height and spacing. In relation to this issue neither do I find the scheme would conflict with the principles of sustainable development set out in Policy DP1 of the Local Plan.

Living conditions

21. A distance of 1.8m would be retained between the side elevation of No 65 and the new 1.5m boundary fence sub-dividing the plot. The plans show a smaller gap between this fence and the front of the new dwelling. However, its proposed orientation would increase the gap towards the rear of the building.
22. No 65 has windows that look out on the side garden. This outlook would be contained by the fence and the flank wall of the new dwelling. However, from what I could see on my site visit these windows appear to be secondary ones. In these circumstances the proposal would not give rise to an unacceptable overbearing appearance or significant overshadowing of No 65.
23. The residual rear garden of No 65 would be of an adequate size provided that the existing garage was removed and the area it currently occupies was incorporated into the garden. In order to make the scheme acceptable in planning terms, this must be undertaken before construction of the new dwelling begins as the garage lies outside the appeal site. I return to this matter later.
24. The siting of the proposal would not cause unacceptable overshadowing to the garden or habitable rooms of No 69. As there is no right to a view from the houses opposite, the loss of the view through the existing gap in the street scene is not a justification for refusing the scheme. The Council did not object to the scheme because of potential harm to these or other nearby occupiers and I see no reason to reach a different conclusion. Disruption during construction, although regrettable is not a reason to reject a proposal that would be acceptable when complete.
25. I therefore conclude that the proposal would not unduly harm the living conditions of the occupants of No 65 as a result of overshadowing or appearing unacceptably overbearing. In these respects, the proposal would comply with Policy CSP18 of the Core Strategy and Policy DP7 of the Local Plan, which seek

to safeguard the living conditions of existing residents. In respect of this issue the proposal would not conflict with Policy DP1 of the Local Plan which promotes sustainable development.

Conditions

26. The Council suggested a list of conditions in the event that the appeal was allowed. I have considered these in the light of the tests set out in paragraph 55 of the Framework and imposed them where necessary, amending them for the sake of clarity and precision.
27. In addition to the standard time limit, a condition specifying the plans is needed to provide certainty. A materials condition is justified in the interests of the appearance of the development and the surrounding area. Conditions requiring the new access, visibility splays and parking space are necessary to comply with the highway authority's requirements and ensure safety for pedestrians and vehicles.
28. A landscaping condition of the complexity suggested by the Council is not necessary, particularly as the rear boundary is already marked by a mature evergreen hedge and the plans show the existing boundary vegetation will largely be retained. However, it is essential that the hard surfacing provided in front of the dwelling is suitable for the parking of vehicles, that works to the roadside boundary hedge are undertaken in a controlled manner and that this hedge is retained thereafter. I have imposed an appropriate pre-commencement condition to that effect with the appellants' agreement.
29. I also sought the appellants' agreement to Grampian style pre-commencement condition requiring the garage within the rear garden of No 65 to be removed and the area incorporated into its garden. This is necessary to safeguard the living conditions of the occupants of No 65. This form of condition is required to ensure that the new dwelling cannot be constructed while the garage remains in place.
30. An electric vehicle charging point is required to comply with paragraph 110 e) of the Framework. The provision of photovoltaic panels is justified to comply with the development plan's requirement to reduce CO2 emissions.
31. Conditions restricting the future use of permitted development rights can only be justified if precisely defined, so as to meet the tests of reasonableness and necessity. In this case I am satisfied that removing them in relation to extensions and outbuildings is justified to protect the character and appearance of the area.
32. However, as the proposal includes 2 dormer windows in the rear elevation, there would be little space in which to insert additional windows and no evidence was presented to suggest how they would cause additional loss of privacy to neighbours. The removal of these permitted development rights is therefore not necessary. The suggested condition referring to a modified access to Gresham Avenue does not appear to be relevant to this case.

Conclusion

33. I have found the proposal would be limited infilling in a village; it would not conflict with the Green Belt's purpose of safeguarding the countryside from encroachment. Consequently, I have concluded it would not be inappropriate

development in the Green Belt. I have also found that the scheme would not give rise to unacceptable harm to the character and appearance of the area or the living conditions of the occupants of No 65.

34. For these reasons, notwithstanding the conflict with the provisions of Policy DP13 of the Local Plan, there are other considerations that outweigh that conflict. Therefore, the appeal is allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 19896 PL 102 and 19896 PL 101.
- 3) No development shall begin until details of hard and soft landscaping to include any works to the roadside boundary hedge have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details and the roadside boundary hedge shall thereafter be retained as approved.
- 4) No development shall begin unless and until the existing garage serving No 65 has been removed and the land has been incorporated into the garden in accordance with details that have previously been submitted to and agreed in writing by the local planning authority.
- 5) No development above slab level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No vehicle shall access the site unless and until the additional vehicular access to Stoneleigh Road has been constructed in accordance with details that have previously been submitted and approved in writing by the local planning authority. The access shall be permanently retained as approved.
- 7) The development hereby approved shall not be first occupied unless and until pedestrian visibility splays of 2m by 2m have been provided on each side of the access. No obstruction to visibility between 0.6m and 2m in height above the ground shall be permitted.
- 8) The development hereby approved shall not be first occupied unless and until the parking spaces shown on the approved plans have been provided in accordance with details that have previously been agreed in writing by the local planning authority. The parking spaces shall be used and retained thereafter for their designated purpose.

- 9) The development hereby approved shall not be occupied unless and until it is provided with a fast charge socket in accordance with a scheme that has previously been submitted to and approved in writing by the local planning authority. It shall be retained thereafter as approved.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order amending, revoking or re-enacting that Order with or without modification) no form of enlargement of the dwelling hereby permitted shall be carried out within the express permission of the local planning authority.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order amending, revoking or re-enacting that Order with or without modification) no garage, shed, greenhouse or other ancillary domestic outbuilding shall be erected within the curtilage of the new dwelling without the express permission of the local planning authority.

End of Schedule