



Appeal Decision

Site visit made on 1 March 2020 by Darren Ellis MPlan

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2021

Appeal Ref: APP/R0660/W/20/3261605

Land at Dark Lane, Gawsworth, SK11 9QZ

- 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 P Dean against the decision of Cheshire East Borough Council.
 - The application Ref 20/3152M, dated 22 July 2020, was refused by notice dated 15 September 2020.
 - The development proposed is Two detached dwellings, two detached garages and associated development.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The appeal site is within the Green Belt and as such the main issues are:
 - whether the proposal would be inappropriate development for the purposes of development plan policy and the National Planning Policy Framework;
 - the effect of the proposal on the openness of the Green Belt; and
 - if the proposal would be inappropriate development, 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 necessary to justify it

Reasons for the Recommendation

4. The appeal site consists of a plot of undeveloped land on Dark Lane in between the residential properties of Chestnut Tree and The Oaks. To the rear of the site is open countryside, and the site frontage consists of a hedge and wooden fence. The proposed development is the erection of two bungalows, each with a detached garage.
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5. The National Planning Policy Framework (the Framework) establishes that new buildings in the Green Belt are inappropriate except in certain circumstances set out in paragraphs 145 and 146. One such exception is limited infilling in villages. Policy PG3 of the Cheshire East Local Plan Strategy (July 2017) (CELPS) consistent with the Framework in that it seeks to protect the Green Belt but allows limited infilling in villages.
6. Saved policy GC1 of the Macclesfield Borough Local Plan (January 2004) (MBLP) allows the construction of new buildings in the Green Belt, including limited infilling in Gawsworth and other defined settlements as long as the development is in scale and character with the settlement. This approach is more prescriptive than Framework and therefore not entirely consistent with it. This consequently limits the weight I can attach to this policy.
7. Policy G1 of the draft Gawsworth Neighbourhood Plan (NP) states that new development outside the infill boundary and within the Green Belt must accord with Policy PG3 of the CELPS. Figure C in the NP shows the appeal site to be outside the infill boundary. However, as the NP has yet to be adopted, I can only attach limited weight to Policy G1.
8. The Council states that the appeal site fall outside the settlement boundary of the village, and this is not disputed by the appellant. Policy PG6 of the CELPS defines an area outside of a settlement boundary as open countryside. The policy details acceptable development in the open countryside, which includes limited infilling in villages. The policy further defines limited infilling as 'the infill of a small gap with one or two dwellings in an otherwise built up frontage'.
9. A recent appeal¹ in 2019 on the same site for a similar development concluded that, although outside the settlement boundary, the appeal site is within the village of Gawsworth. The Council, in the delegated report, say that they respect this conclusion and have not contested it in this case. No evidence has been presented for me to come to a different conclusion.
10. The term 'limited infilling' is not defined in the Framework. Therefore, it is a question of fact and planning judgement as to whether a development constitutes limited infilling or not, as set out in the Tate the Court of Appeal judgement².
11. Both parties refer to definitions that are set out in the glossaries of the CELPS and MBLP. The CELPS defines 'infill development' as 'the development of a relatively small gap between existing buildings' while the MBLP defines 'infilling' as 'the filling of a small gap in an otherwise built-up frontage. (A small gap is one which could be filled by one or two houses)'.
12. Spatial analysis by the appellant illustrates that the width and depth of the proposed plots would be comparable to other plots in the street, and furthermore the scale and design of the two bungalows would be in keeping with the character and appearance of the other dwellings in the street scene. However, the site itself is approximately 50m wide, and given the positions of the dwellings and garages of Chestnut Tree and The Oaks within their respective plots, the gap between the nearest buildings is approximately 70m. From what I could see, this situation has not changed since the 2019 appeal. The substantial gap together with the lack of any other buildings to the rear of

¹ Appeal reference APP/R0660/W/19/3236214

² R (Tate) v Northumberland County Council [2018] EWCA Civ 1519

the site or on the opposite side of Dark Lane, gives the appearance that The Oaks is the last in the line of dwellings and that Chestnut Tree is separate from the other dwellings by quite a significant distance. There is also a change in character across the gap and the intervening agricultural land between The Oaks and Chestnut Tree adds to the sense of separation.

13. While the length of a gap on its own is not necessarily enough to deem a gap as limited or not, given the substantial size of the gap and the context of the layout of the village and the arrangement of buildings and intervening spaces on Dark Lane, in my view the gap could not reasonably be considered to be limited. Similarly, it would not constitute a small or relatively small gap and as such the proposal would not meet either the CELPS definition of infill development or the MBLP definition of infilling.
14. The 2019 appeal was dismissed on the grounds that the proposal would not constitute limited infilling. The scheme before me has been amended from the 2019 appeal scheme with the proposed garage on plot 1 being moved forwards and an amended design and footprint for the proposed house on plot 2, in order reinforce the existing built-up frontage and to better represent the character of the street. However, these alterations fail to address or mitigate the matter of the gap itself not being limited in size and the context of the site. In other words, the previous Inspector did not conclude that the proposal would not amount to limited infilling on the basis of the design or layout of the proposal but on account of the scale and characteristics of the gap between The Oaks and Cherry Tree, relative to the surrounding context. For the reasons given, the alterations in design do not alter the fundamental characteristics of the location and the proposal would not amount to limited infilling in the local context.
15. My attention has been drawn to numerous other decisions and appeals. Full details of the appeals at Seven Sisters Lane, Ollerton³; Six Ashes Road, Bobbington⁴; Thorn Cottage, Skelson⁵; and Land west of Frog Lane, Pickmere⁶, and the planning applications at Holme Acre, Alderley Edge⁷; Danesmoor, Alderley Edge⁸; Penrhyn Cottage, Adlington⁹; and Knutsford Road, Alderley Edge¹⁰ have not been provided. As such I am unable to make a direct comparison between these schemes and the one before me. In any case, each case is treated on its own merits and I have made a planning judgement based on the site specific context on the ground. What may be considered 'limited infilling' in one instance may not be directly comparable to another and various factors will need to be taken into account, such as the scale and layout of the individual settlement in question and the characteristics of the gap in question, taking account of surrounding uses and buildings. In other words, the development of similar sized gaps between buildings may be considered limited or otherwise, dependent on the specific context.

³ Appeal reference APP/R0660/W/17/3185237

⁴ Appeal reference APP/C3430/W/18/3207145

⁵ Planning application reference 16/1351M, appeal reference not provided

⁶ Appeal reference APP/R0660/W/18/3211980

⁷ Planning application reference 19/1548M

⁸ Planning application reference 19/3890M

⁹ Planning application reference 16/0647M

¹⁰ Planning application reference 16/5587M

16. Two appeals were at Coppice Road, Higher Poynton, in 2015¹¹ and 2019¹². The 2015 appeal was for nine dwellings, which is a much larger scale development than the scheme before me. In both appeals, the site had other dwellings on three sides of the appeal site. As such these schemes is not directly comparable to the scheme before me.
17. Two appeals were recently determined at Stone Cottage, Prestbury¹³ with the second appeal, for two dwellings, was allowed. The Inspector judged that the proposal constituted limited infilling in the village. However, the appeal site in these cases has other buildings on three sides and a sports ground to the rear, and appears to be located in a more built up setting. Consequently, I do not consider these appeals to be directly comparable to the scheme before me.
18. I therefore conclude that the proposed development would not constitute limited infill in a village and therefore does not qualify as an exception under paragraph 145(e) of the Framework. Consequently, the proposal would be inappropriate development within the Green Belt.

Openness

19. Openness is an essential characteristic of the Green Belt. The Planning Practice Guidance states that openness is capable of having both spatial and visible aspects¹⁴. As the proposed dwellings and detached garages would be constructed on a site which is currently free from built development, the proposal would result in both a spatial and visual reduction in the openness of the Green Belt. Although the buildings would be single-storey in nature, there is no built development behind the site and as such the dwellings would reduce views of the countryside to the rear. This would cause moderate harm to the openness of the Green Belt and is in addition to the harm by reason of its inappropriateness.

Other Matters

20. The properties along Dark Lane are predominantly bungalows or dormer bungalows set in generous plots. The proposed dwellings would be in keeping with the surrounding properties and would reflect the character of the area.
21. I acknowledge the neighbours' concerns that the proposed development would increase traffic along Dark Lane. However, the Council has not raised any concerns in relation to highway safety, subject to a condition regarding visibility splays. The provision of two additional dwellings is unlikely to result in a significant increase in vehicle movements, and based on the evidence before me I have no reason to disagree with the Council's assessment.

Planning balance and conclusion

22. The proposal is inappropriate development in the Green Belt and, in addition, would cause harm to the openness of the Green Belt. The Framework establishes that substantial weight is afforded to any harm to the Green Belt

¹¹ Appeal reference APP/R0660/W/15/3013616

¹² Appeal reference APP/R0660/W/18/3201548

¹³ Appeal references APP/R0660/W/20/3252110 and APP/R0660/W/20/3252114

¹⁴ Planning Practice Guidance, Paragraph: 001 Reference ID: 64-001-20190722

23. The Framework further states that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
24. No considerations have been put forward by the appellant although the proposal would provide one additional housing unit to which I attach moderate weight. However, the harm that would be caused to the Green Belt in addition to the harm that would be caused to the character and appearance of the area is not clearly outweighed by the benefits of the scheme. Consequently, the very special circumstances necessary to justify the proposal do not exist. As such, the proposal is contrary to Policy PG3 of the CELPS, Policy GC1 of the MBLP, Policy G1 of the NP and to the Framework. As the proposal would not constitute limited infilling in a village, the proposal would also conflict with Policy PG6 of the CELPS.
25. Moderate weight is attached to the other considerations that are raised by the appellant, and subsequently they do not clearly outweigh the totality of the harm I have identified, harm which carries substantial weight. Consequently, very special circumstances do not exist
26. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

27. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR