

Appeal Decision

Site visit made on 1 November 2016

by Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 07 November 2016

Appeal Ref: APP/C3430/W/16/3154227

Lodge Farm, Lodge Lane, Cheslyn Hay, Staffordshire WS11 0LT

- 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 N Pionides against the decision of South Staffordshire Council.
 - The application Ref 15/00931/FUL, dated 21 October 2015, was refused by notice dated 18 March 2016.
 - The development proposed is for the formation of new access including erection of wall, piers and gates and laying of stone track.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy.
 - b) The effect of the proposal on the openness of the Green Belt and the character and appearance of the area.
 - c) The effects of the proposal on the living conditions of occupiers of nearby dwellings.
 - d) If the development is inappropriate, 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 the development.

Reasons

Whether inappropriate development

3. The appeal site is located within a largely rural setting that includes a number of former agricultural buildings that have been converted to housing. The proposal has in part been built and includes the creation of the access and stone track, together with the erection of the 1.9m high brick wall with 2.3m high brick piers either side and metal gates. The existing gates however would be relocated to provide a set-back to allow vehicles to clear the highway. New
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- 1.8m high close-boarded fencing would be provided either side of the access to a point 7m into the access where the gates would be re-hung.
4. The Framework establishes that the construction of new buildings within the Green Belt is inappropriate. The term 'building' as defined in the Town and Country Planning Act 1990 Act refers to any structure or erection and it therefore includes walls and fences. They are not in the list of exclusions at paragraph 89 of the Framework. Nor is a wall or fence an exception to inappropriate development in paragraph 90 of the NPPF. Therefore when judged against the wording of national policy the proposal as a whole would be inappropriate development in the Green Belt.
 5. Policy GB1 of the South Staffordshire Core Strategy (CS) and the Council's Green Belt and Open Countryside Supplementary Planning Document set out the appropriate classes of development that may be acceptable within the Green Belt. They do not deal with fences and walls any differently and they are consistent with the Framework relating to development in the Green Belt. Inappropriate development is harmful to the Green Belt by definition.

Openness/Character and Appearance of the area

6. Approaching the appeal site from the west along the A460 the predominant character is largely of roadside scrub trees and hedges behind which are extensive stands of mature trees. The converted farm buildings are not readily seen from the main highway as a result. Part of the high brick wall that has been built is visible from some distance along the A460 approaches to the site and it interrupts the otherwise verdant highway corridor.
7. At closer quarters at the road junction, the wall and tall metal gates, even though these would be set back are dominant man-made structures that have a harmful urbanising effect on the mainly rural surroundings. This is despite the presence of two other similar access points, walls and gates that serve the Lodge Farm housing site and which are well set back from the A460 by comparison. The additional fencing that is proposed would further accentuate this abrupt and incongruous boundary treatment. Moreover, the enclosing effect of the proposal would harm the openness of the Green Belt and it would encroach into the countryside surroundings.
8. Consequently, the appeal proposal would not accord with CS Policies GB1, which seeks to maintain the openness of the Green Belt and Policy EQ4, which seeks to protect and enhance the character and appearance of the landscape, and the Framework.

Living conditions

9. CS Policy EQ9 in seeking to protect residential amenity requires new developments to take account of living conditions of nearby residents with particular regard to privacy, security, noise and disturbance, amongst other things. The access track would be within 10 metres of the nearest dwellinghouse, which is separated by a tall coniferous hedge. At these distances, I do not consider that significant harm would arise, particularly given the occasional use of the access as described by the appellant.
10. In this respect there is no evidence that the proposal would give rise to the types of problems highlighted in the policy and therefore conclude that it would comply with CS Policy EQ9.

Other considerations

11. The appellant asserts that the new track provides the only means of access available to the electricity undertaker and those responsible for maintaining the sewage facilities for the houses. Although this is disputed by an objector to the scheme, I appreciate that this might prove problematical for residential occupiers of the affected houses despite the confirmation by the electricity undertaker that they do have a legal right of access. Nevertheless, this is a largely private matter for resolution away from this appeal.
12. It may be the case that walls and fences could be erected as permitted development. However, that is not clear and there is nothing to show what such a scheme would involve so that a comparison can be drawn with the scheme that is currently before me. There may be a need for enclosures for site security reasons but there is no evidence to show that this is a particular problem that needs addressing or that it could not be achieved in other ways such as the continuation of the hedgerow.
13. It is acknowledged that the planning application was recommended for approval by the Council's planning officers. Although it was therefore elected politicians that voted to refuse the scheme, it is still a decision made by the local planning authority. It is also noted that the Council declined to consider a second recently submitted planning application in an attempt to place before the Authority the background to the scheme that the appellant feels was not fully explained by officers the first time around. However, this was rejected by the Council and in any event I have taken the circumstances of the scheme into account in this appeal.
14. Consequently, the other considerations identified have only limited weight.

Green Belt balance

15. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering planning proposals substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
16. The other considerations in this case do not clearly outweigh the substantial weight that must be attached to the Green Belt harm identified above as well as the harm to the character and appearance of the area. Therefore, notwithstanding that I have not found harm to the living conditions of nearby residential occupiers, which is a neutral factor in the overall balance, the very special circumstances necessary to justify the development do not exist. The proposal would therefore conflict with the Green Belt objectives of the Framework and Policy GB1 of the CS.

Conclusion

17. Having had regard to all other matters raised, I conclude that this appeal should be dismissed.

Gareth W Thomas

INSPECTOR