
Appeal Decision

Site visit made on 24th January 2017

by Jonathan G King BA(Hons) DipTP MRTPI

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

Decision date: 21st February 2017

Appeal Ref: APP/P2365/D/16/3161693

Oakdene, Sanderson Lane, Hilldale, Heskin PR7 5PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant retrospective planning permission.
 - The appeal is made by Mr Finnamore against the decision of West Lancashire Borough Council.
 - The application Ref 2016/0870/FUL dated 16th August 2016, was refused by notice dated 18th October 2016.
 - The development is a fence and gates.
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Decision

1. The appeal is dismissed

Main Issues

2. The main issues in this case are:
 - (a) the effect of the development on the character and appearance of the area; and
 - (b) whether the development constitutes inappropriate development in the Green Belt; and, if so, whether very special circumstances exist to outweigh the presumption against the grant of planning permission.

Procedural matters and matters of clarification

3. The close boarded fence and timber gates that are the subject of this appeal have already been erected. The appeal therefore relates to an application for retrospective planning permission.
4. Neither the application nor this appeal relate to the hardstanding which is enclosed by the fence and gates. The Council has indicated that although that land forms part of the residential curtilage, no explicit permission has been granted for other uses, nor for the hardstanding.
5. The fence in question extends from the gates towards a stable block, but stops a little short. I do not regard the plywood that fills the gap as forming part of the fence, and so it is not covered by this appeal.
6. I understand that enforcement action has been taken by the Council against the appellant in relation to development at Oakdene. An appeal [APP/P2365/C/16/3165051] against an enforcement notice relating to the fence and gates has been lodged, but at the time of writing has not been determined. For the avoidance of doubt, this decision relates solely to the

appeal against refusal of planning permission and does not address the enforcement proceedings.

7. During the course of considering this appeal, I made written enquiries of the Council as to the basis of its conclusion that the proposed development should be regarded as inappropriate development in the Green Belt. The appellant has in turn responded. I have taken into account this new information in reaching my conclusions.

Reasons

Character and appearance

8. The painted, wooden double gates approximately 2 metres in height occupy the space between a substantial brick garage block which is set back some distance from the frontage of the property to Sanderson Lane, and a field boundary, marked by a post and rail fence. The fencing which is the subject of this appeal consists of vertical timbers of similar height, running for approximately 15 metres along the inside of the post and rail fence towards a dark-stained timber stable block. Enclosed within the area between the garage block and the fence is a concrete hardstanding. At the time of my visit, this was occupied by a road trailer, a smaller trailer, a number of wheelbarrows and hand tools.
9. The principal views of the gates and fence are obtainable from Sanderson Lane, though these are to some extent obscured by intervening hedging and other vegetation. The natural-coloured timber of the fencing is beginning to weather and is not particularly intrusive. In contrast, the gates, painted pale green, consistent with some other woodwork at the dwelling, is more conspicuous. Both the fencing and the gates are viewed partly against the buildings, and partly against trees beyond. Neither the fencing nor the gates are of types characteristic of a rural area generally or of this locality. They provide a degree of enclosure not generally found, for example, at a farmstead, and would be more in keeping with an urban or suburban location. They are incongruous, in particular the gates which have a distinctly urban character.
10. If the gates and fencing were not in place, views would be of the side of the garage block; and possibly the equipment presently stored within the enclosed area. It is arguable that such views would be less "tidy" but, equally, they would be more characteristic of a rural area. In my view, the fencing and gates cause some limited harm to the character and appearance of the area. I regard that as being contrary to the thrust of West Lancashire Local Plan Policy GN3 which amongst other things requires development to have regard to visual amenity and complement or enhance local distinctiveness within its surroundings through sensitive design, including boundary treatment. The theme is continued in the Council's Supplementary Planning Document – Design Guide, which adds that care should be taken to limit the need for long sections of high close-boarded fences but, where they are required, their design should match those used elsewhere locally.

Green Belt

11. The Council's approach to development in the Green Belt (Local Plan Policy GN1) is to follow national policy; and it relies principally on the guidance of the National Planning Policy Framework (NPPF). The construction of new buildings should be regarded as inappropriate in the Green Belt. The NPPF does not

define “building”, but section 336 of the 1990 Act defines the term as including “any structure or erection”. On that basis, I regard the fencing and gates as a building. The Council is of the same opinion but the appellant has not addressed the matter.

12. There are a number of exceptions to the general presumption that new buildings are inappropriate. Amongst these NPPF paragraph 90 lists “engineering operations” in certain circumstances. Council refers to this in its case report, but neither party suggests that the fencing or gates should be considered in that way. The Council takes the view that it is the hardstanding that should be so regarded, but that does not form part of the appeal development. I do not consider the fencing and gates to be engineering operations.
13. Another exception (listed in NPPF paragraph 89) is the “provision of appropriate facilities for outdoor sport and outdoor recreation”, as long as they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The appellant states that the land enclosed by the fencing and gates form part of the residential curtilage *“which they would use in connection with the adjacent stables”*, but does not claim that the fencing and gates themselves should be regarded as “appropriate facilities ...”, nor that on any other basis they should be regarded as not inappropriate development. The Council has clarified for me their view on the matter. It states that in its opinion the fencing and gates should not be categorised as “appropriate facilities ...”. Again, I agree. They cannot, in my judgment, be regarded as “facilities” because, notwithstanding the presence of the stables, they could play no part in facilitating sport or recreation.
14. The Council’s case report does not expressly identify the basis of its assertion that the development is inappropriate in the Green Belt; and the appellant is equally silent on the subject of inappropriateness, despite its centrality to the consideration of the appeal. Having sought clarification from both parties as to their views on the subject, I conclude that the fencing and gates should be regarded as inappropriate development on the basis that they comprise a “building” and that they do not fall within any of the categories of development identified in the NPPF as not inappropriate.
15. The NPPF says that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
16. In this case, the appellant has not put forward any other considerations that would clearly outweigh the harm by reason of inappropriateness and the harm I have identified under my first issue. In these circumstances, very special circumstances do not exist and so permission should not be granted. The development is contrary to the provisions of Policy GN1 and of the NPPF. Consequently, the appeal fails.

Jonathan G King

Inspector