
Appeal Decision

Site visit made on 28 February 2017

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 15 March 2017

Appeal Ref: APP/J1535/D/16/3164442

Oak Grove, Theydon Road, Theydon Bois CM16 4EF

- 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 Scott Kyson against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/1838/16 was refused by notice dated 9 September 2016.
 - The development proposed is the formation of a new boundary wall.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues in this appeal are:
 - Whether the proposed development amounts to inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (The Framework) and the development plan.
 - The effect on the openness of the Green Belt.
 - The effect on the character and appearance of the locality.
 - 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

Inappropriate development

3. The appeal concerns a detached dwelling located within the Green Belt where Government policy in the Framework identifies development that would not be inappropriate. The term 'building' is not defined in the Framework but the definition in the 1990 Act refers to any structure or erection and is therefore taken to include walls. As a result, the proposal should be treated as a 'building' for the purposes of the Framework. New buildings should be regarded
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as inappropriate development in the Green Belt unless they fall within the list of exceptions given in paragraph 89 of the Framework.

4. However, the proposed wall does not comprise any of the stated list of exceptions so that when judged against Government policy would comprise inappropriate development in the Green Belt. Inappropriate development should not be approved except in very special circumstances, which 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.
5. Epping Forest District Local Plan Alterations (LPA) Policy GB2A indicates that planning permission will not be granted for development within the Green Belt unless it comprises one of a number of stated types. The proposal would not fall within any of these and as a result is in conflict with this policy.

Openness of Green Belt

6. The proposed brick wall would have a length of about 30m, according to the Council, with gates towards the northern end. It would be 2m high and built to the front of the existing hedge, as shown on the site plan. During the Council's consideration of the application revisions to the scheme were made to include new planting to the front of the wall. This is shown on the road and site elevation drawings but not on the site plan.
7. However, the openness of the Green Belt derives from an absence of development. The presence or absence of vegetation and the extent to which development may be visible have no bearing on this. If this were not the case much development could take place in locations obscured by planting which would undermine the fundamental aim of policy to restrain development in the Green Belt.
8. The proposal would introduce additional built development in the Green Belt. Moreover, the physical extent of the wall would be significant given its length and height. As a result, the openness of the Green Belt would be materially reduced.

Character and appearance

9. The detached dwelling at Oak Grove is located at the end of frontage development along the western side of Theydon Road. There is a field on the opposite side of the road and forest land to the south. The dwelling is towards the northern end of a broadly triangular plot which extends a significant distance to the south.
10. There is an established hedge on a raised bank extending past the front of the dwelling in the northern part of the site. There is a fairly modest length of taller fencing at the southern end of the site but the large majority of that beyond the hedge is of an appreciably lower height. Because of its picket style, vegetation has grown through some of the gaps between the vertical rails. As a result it covers the fencing in places while also rising significantly above the reasonably low feature. Due to these factors and despite being enclosed the site has a relatively green and verdant street frontage.
11. Harsher and more urban boundary treatments such as walls, railings and solid fencing are found to the north so that the wider character is varied. However, these properties are not located at the end of the ribbon of development along

the western side of Theydon Road and the appeal site is in a particularly sensitive position given the open countryside to the south and east. The planting and absence of intrusive boundary treatments enables an attractive visual transition from the frontage dwellings to open countryside. This is the case regardless of the presence of other means of enclosure, such as walls, found elsewhere.

12. There are no details of the proposed planting which would need to be the subject of a planning condition. As a result, there is no expert advice regarding matters such as the prospects of particular planting becoming established, its potential longevity and screening effect. In my view, it should not be assumed that these aspects would necessarily be satisfactory given the proximity of the wall for example. I am also concerned that the new planting may well take an appreciable period of time to significantly reduce or mitigate the visual impact of the fairly substantial wall. In any event, it seems likely to me that the wall would be a longer lasting feature in the locality than any planting.
13. In these circumstances and given its elevated position above the road, together with its extent, I am not persuaded that the wall would be other than an unacceptably dominant and intrusive feature. It would be an unduly harsh and solid presence in the streetscene, detracting from the sense of a smooth transition to the open countryside, rather than appropriately reflecting other boundary treatments in the wider area. In consequence and despite the presence of design features such as buttresses, the wall would be harmful to the character and appearance of the locality.
14. Epping Forest District Local Plan Policies DBE1, DBE4, LL2, LL3 and LPA Policies CP2 (iv) and GB7A have the overall intention of protecting character and appearance in respect of matters such as the Green Belt, urban environment and landscape. Because of the adverse effects I have found, the proposal would be contrary to these policies. It has not been demonstrated that the specific aim of Policy LL3 that development on the edge of settlements should show a sensitive appreciation of its effect, such as by extensive landscaping, would be satisfied.

Other considerations

15. It is indicated that there have been a number of robberies at Oak Grove. The letter from Essex Police refers to a single unspecified crime. However, it does not include any suggestion that the existing boundary treatment has compromised security or that a wall should be built to remedy this. Moreover, it may be that such concerns could be addressed by other means such as CCTV.
16. It is suggested that the existing boundary treatment gives little acoustic protection making a large part of the outside amenity space undesirable to use for a large part of the year. I have considered the submitted leaflet regarding acoustic fencing and barriers, although a wall is proposed in this instance. However, there is no noise survey to show that the garden is subject to sound levels that might justify the construction of a wall for mitigation purposes.
17. There is a generalised reference to gaps in the existing boundary treatment enabling children to get onto the road. However, there is nothing to show that the space at the front of the house is an area where children would need to play. There is also nothing to show that safe and well enclosed areas do not exist, or could not be made available, elsewhere within the particularly large

plot. Reference is also made to concerns over privacy but there is no detailed evidence to support this either.

18. Due to the above factors, I am not persuaded that these matters should weigh significantly in favour of the appeal. Moreover, the failure to respond to local character and unacceptable visual appearance outweigh any functional benefit, having regard to Paragraphs 58 and 61 of the Framework.

19. I have considered the photographs of brick boundary treatments in the area and the cases where planning permission was granted by the Council for such development. However, these concern other sites and the full details and background to these have not been provided. It has not therefore been demonstrated that the circumstances are comparable to this proposal and the Council suggests that there are significant differences. These other boundary treatments are not therefore an important consideration in this appeal and are afforded little weight.

Conclusion

20. Harm would be caused to the Green Belt as a result of inappropriate development and a loss of openness. In accordance with Paragraph 88 of the Framework substantial weight should be afforded to this harm. There would also be harm to the character and appearance of the locality to which significant weight should also be attached.

21. Due to the limited weight accorded to them for the above reasons, it is concluded that the other considerations raised do not clearly outweigh the harmful effect of the development. There can, in consequence, be no very special circumstances and the proposal would be contrary to the Framework policies concerning development in the Green Belt. There would also be conflict with the relevant development plan policies. It is therefore determined that the appeal fails.

M Evans

INSPECTOR