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## Appeal Decision

Site visit made on 14 June 2017

**by John Morrison BA (Hons) MSc MRTPI**

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

**Decision date: 4<sup>th</sup> July 2017**

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**Appeal Ref: APP/N1920/W/17/3172011**

**Kendals Cottage, Loom Lane, Radlett, Hertfordshire WD7 8BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Stephen Balsam against the decision of Hertsmer Borough Council.
  - The application Ref 16/1846/VOC, dated 23 September 2016, was refused by notice dated 16 November 2016.
  - The application sought planning permission for the retention of existing dwelling granted planning permission under application 15/0356/FUL to include two single storey rear extensions without complying with a condition attached to planning permission Ref 16/0904/FUL, dated 5 August 2016.
  - The condition in dispute is No 1 which states *"On or before 10<sup>th</sup> November 2016 the existing brick piers and solid wooden gates erected on the front boundary of the site shall be demolished and the materials resulting from the demolition shall be removed from the application site. That front boundary shall not be replaced unless prior planning permission is first approved in writing by the local planning authority."*
  - The reason given for the condition is *"In the interests of the visual amenity of the area and to protect the openness of the Green Belt. To comply with Policies SADM3, SADM27 and SADM31 of the Site Allocations and Development Management Policies Plan July 2015 and Policies CS13 and CS22 of the Hertsmer Core Strategy 2013."*
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Council have provided advice on the status of their development plan, specifically the Site Allocations and Development Management Policies Plan (SADMPP) which was adopted on 23 November 2016. A week after the application subject of this appeal was determined. The wording and approach of Policies SADM27 and SADM31 were largely unchanged from the draft version that was in place when the application was determined save for the fact that there were renumbered as Policies SADM26 and SADM30 in the adopted version. The same appears to apply to SADM22 which was SADM23 in the draft version. I have proceeded with reference to the most up to date policies and their correct reference number in this decision.
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### **Application for costs**

3. An application for costs was made by Mr Stephen Balsam against Hertsmere Borough Council. This application is the subject of a separate Decision.

### **Main Issues**

4. The main issue in the determination of this appeal is whether the condition is reasonable and necessary in respect of the following matters:
  - Whether or not the development is inappropriate development in the Green Belt;
  - The effect of the development on the openness of the Green Belt;
  - If the development is 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 the development; and
  - The effect of the development on the character and appearance of the area.

### **Reasons**

#### *Inappropriate Development in the Green Belt*

5. The Framework<sup>1</sup> states that a local planning authority should regard the erection of new buildings as inappropriate in the Green Belt<sup>2</sup>. There are exceptions to this set out by paragraphs 89 and 90. The Framework does not set out what it considers to be a building but the term building is defined in section 336 of the Act<sup>3</sup> as including any structure or erection, and any part of a building.
6. The gates and brick piers are erections/structures in themselves. They required a building operation to take place. Taking into account the definition in the Act, the gates and piers should be regarded as buildings for the purposes of the Framework. With this in mind, and considering that the development does not fall within any of the exceptions set out in paragraphs 89 and 90 of the Framework I can make no conclusion other than that the development is inappropriate development in the Green Belt. By definition, this is harmful<sup>4</sup>

#### *The Openness of the Green Belt*

7. Openness is an essential characteristic of the Green Belt. Not solely limited to visual matters, it also has a spatial aspect which can be taken to mean the absence of built form.
8. As built structures, the gates constitute the occurrence of built form. The fact that they are in amongst what has become established as a landscaped boundary of some maturity does limit their visual effect which follows to reduce the effect they have on the visual aspect of openness. Nonetheless, as built form, they reduce the spatial aspect of openness which results in some harm. As per paragraph 88 of the Framework, I afford this harm substantial weight.

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<sup>1</sup> The National Planning Policy Framework 2012

<sup>2</sup> Paragraph 89 of the Framework

<sup>3</sup> Town and Country Planning Act 1990

<sup>4</sup> Paragraph 87 of the Framework

This would be in addition to the harm caused by the inappropriateness of the development.

#### *Other Considerations*

9. The appellant has presented an argument regarding the need for the gates and piers on security grounds and advances that the appeal site is in a high crime area for burglaries in particular. Crime maps have been provided showing reported burglaries of which there were 107 in the first six months of 2016. 30 of which appear to be in, or around Radlett. I do not have any comparable figures as to how this looks alongside the national picture but nonetheless it indicates that there have been break ins locally equating to, roughly, one per week in those six months.
10. This data is however light on detail and somewhat generic to a wide area. Whilst one could drill the data down to Radlett the maps are not helpful in determining the location or nature of the burglary. Moreover, I have not been provided with any information pertaining to the appeal site itself and whether there is a need for the gates and piers on this particular site in the interests of security. I do attach some weight to the fact that the appeal site is remote and thus some form of security would be justified but the appellant has not explored any means to provide it other than the gates. As such, I do not consider that the need for the gates on security grounds has been sufficiently justified to the extent that it is enough to outweigh the harm that I have found above.

#### *Character and Appearance*

11. The appeal site is one of a number of large detached dwellings located in predominantly rural area. It is set back from and faces the access which is a single width track off the end of Loom Lane. The gates and brick piers are adjacent the back edge of the track in amongst what has developed into a semi mature landscaped front boundary.
12. In general, front boundaries and vehicular access points to other dwellings in the vicinity of the appeal site are open. Landscaping and mature trees do however also play their part in defining the character of the lane. In character and appearance terms, and as an issue in isolation, the fact that the gates and piers are a unique feature to the immediate street scene does not make them automatically harmful. In the case of the boundary in question, the maturity and height of the planting that makes it up along with the gates makes them less of a striking feature and part of one complete boundary. In effect, the gates do not appear overly dominant or particularly oppressive, particularly when viewed against the vertical close boarded timber fence separating the appeal site with the immediate neighbour.
13. I do accept that the use of such gates, in the visual sense, can have a 'fortressing' effect and thus increase the perception or fear of crime given their divisive or intimidating appearance. In the case of the appeal site however, the fence to the side and the planting around the site already garner a strong sense of enclosure and it is in this context that the gates are read. For these reasons therefore, and on the assessment of this main issue alone, I do not find that the development causes harm to the character and appearance of the

area. Consequently, there is no conflict with Policy CS22 of the Core Strategy<sup>5</sup>, Policies SADM26 and SADM30 of the SADMPP. Amongst other things and along with section 7 of the Framework, these policies seek to ensure high quality and contextually appropriate design and appearance in new development.

### **Other Matters**

14. The Council make reference to Policy SADM3 of the Local Plan in their reasons for refusal. The main thrust of this policy is to ensure, amongst other things, that new residential developments do not involve the loss of such uses and/or affect the supply of affordable housing. Given the nature of the development subject of this appeal and the sufficiency of other policies that have been referred to in my decision, I do not consider that SADM3 is directly relevant.
15. The appellant has brought to my attention a number of examples of other similar gates and walls on properties along Loom Lane. A series of photographs have been provided. Whilst this may be the case, I have not been provided with any further details of the setting of the gates or the circumstances of the planning permission that was granted for them if indeed they benefit from such. With this mind, and the fact that each development proposal is considered entirely on its own merits, these examples do not persuade me to allow the appeal.
16. I also note that the lack of objections to the development from local residents and indeed some have expressed support. This does not however absolve the decision maker from making a full assessment of a given development against the development plan. Put simply, the lack of negative views does not lessen the harm that may be found when assessed in this particular case.

### **Conclusion**

17. Notwithstanding my findings in respect of character and appearance, it remains that the development is inappropriate development in the Green Belt. This is harmful by definition. Further harm to the Green Belt is caused by the net loss of openness as I have described it. As per the Framework, I ascribe this harm substantial weight. Considering this in the context of my findings on other considerations above, very special circumstances have not been demonstrated that would justify the development in light of the harm. Given this, the development fails to accord with Policies CS13 of the Strategy, Policy SADM22 of the SADMPP and section 9 the Framework. Between them, these policies seek to designate the extent of the Green Belt and protect it from harm.
18. The condition sought the removal of the gates and piers as they were considered harmful. I have also concluded that harm arises in my findings. The condition is therefore reasonable and necessary, and related to the development that was granted planning permission. Specifically; it was imposed to make the development acceptable in planning terms. Taking into account my findings above, and having regard to all other matters raised, the appeal fails and the condition remains.

*John Morrison*

INSPECTOR

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<sup>5</sup> Hertsmere Local Plan Core Strategy Development Plan Document 2013