



Appeal Decision

Site visit made on 18 July 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 8th August 2017

Appeal Ref: APP/C3620/W/17/3171075

**Plot 5, land adjacent to Fair Ridge, Parkgate Road, Newdigate, Surrey
RH5 5DX**

- 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 Roger Johnson against the decision of Mole Valley District Council.
 - The application Ref MO/2016/1625/PLA, dated 7 October 2016, was refused by notice dated 16 November 2016.
 - The development proposed is described as 'The erection of a perimeter fence – machine rounded fencing posts/tree stake 50mm diameter by 1.2 m high. The erection of a pedestrian gate access 6ft 5" wide wooden diamond brace farm field entrance pathway gate 1.8 m x 180cm'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt; and
 - if the development would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Background

3. The development would involve the erection of a 1.2 metre high fence around the perimeter of plot 5 and include the installation of a 1.8 metre wide gate fronting Parkgate Road. Plot 5 is an open piece of land. Ordinarily this development would not require express planning permission because of the permitted development (PD) rights available under The Town and Country Planning (General Permitted Development) (England) Order 2015. However, the relevant PD rights have been withdrawn following the Secretary of State's confirmation on 10 November 1975 of an Article 4 Direction (the direction) issued by the Council on 12 August 1975. Plot 5 comprises a small part of the

area subject to the direction, with the direction's coverage including land extending beyond Nightingales Cottage.

Whether inappropriate development in the Green Belt

4. Plot 5 is within the Green Belt and the area is therefore subject to national planning policy that seeks to maintain the permanent openness of the Green Belt. The National Planning Policy Framework (the Framework) states at paragraph 87 that inappropriate development in the Green Belt is harmful by definition and should not be permitted. Paragraph 89 of the Framework states that the construction of buildings constitutes inappropriate development in the Green Belt, apart from six listed exceptions.
5. For the purposes of the Act the term building includes any structure or erection and therefore includes fences. Fences and gates are not listed as exceptions for the purposes of paragraph 89. I therefore conclude that the installation of the fencing and gate would be inappropriate development for the purposes of paragraphs 87 and 89 of the Framework. The development because of its inappropriateness would, by definition, be harmful to the Green Belt and I therefore find that great weight should be given to that harm.

Openness

6. Plot 5 forms part of the much more extensive area covered by the direction and this tract of land is essentially open in character, with the installation of fencing having been quite limited. While a stretch of fencing has been installed, ie the line of fencing shown blue on the plan accompanying the appellant's appeal case, its appearance is compatible with field scale land demarcation. I therefore consider that the previously mentioned fencing does not provide a justification for the further partial sub-division of the land subject to the direction.
7. The direction appears to have served its purpose of keeping the land covered by it permanently open in the Green Belt, by controlling the installation of fencing or other means of enclosure. I therefore consider that the installation of the proposed fencing and gate, by introducing built development, would be at odds with retaining the openness of plot 5 and the other land subject to the direction.
8. Plot 5's boundary with Parkgate Road comprises a mature hedgerow, which extends northwards and marks the majority of the roadside boundary for the land subject to the direction. An exception being the field gate located immediately to the south of Nightingales Cottage. However, I consider that gate does not look out of place, representing a small break in the extensive hedgerow, which serves as a single access to an extensive field. I therefore consider that the field gate has an insignificant effect on the area's openness.
9. The installation of the proposed gate would necessitate the formation of an opening in the hedgerow, which because of its location would have a more overt presence than the above mentioned field gate. The partial removal of the hedgerow would also create opportunities for the proposed plot fencing to be seen. I therefore consider that the formation of the access would be incompatible with maintaining the area's openness.
10. I therefore conclude that the development would give rise to a permanent loss of openness within the Green Belt, which would be contrary to paragraph 79

of the Framework. I also consider that there would be conflict with saved Policies ENV22 and ENV23 of the Mole Valley Local Plan of 2000 and Policy CS13 of the Mole Valley Core Strategy of 2009 because the development would not maintain the area's openness, which contributes to the distinctiveness of this area's character. I consider this harm weighs significantly against this development

Other Considerations

11. The appellant has referred to the absence of fence having '... caused considerable difficulty and has encouraged attempted adverse possession ...'. However, the considerable difficulty referred to has not been explained and is therefore something I can attach limited weight to. Matters relating to landownership are not material to land use considerations.
12. I am mindful of the appellant's wish to gain direct access to plot 5 from Parkgate Road. However, the plot layout, shown on the Land Registry plan sent to the Council by the occupiers of Fair Ridge with their letter of 14 December 2016, includes an access route leading from Parkgate Road for various plots. It therefore appears that plot 5 is intended to be accessible via a shared access arrangement. Any issue relating to the use of the field gate is a civil matter and is not for my consideration. I therefore attach limited weight to this aspect of the appellant's case.

Conclusions

13. For the reasons given above I conclude that the matters raised by the appellant in support of the development do not outweigh the substantial harm to the Green Belt by reason of the development's inappropriateness and the adverse effect on openness. Accordingly there are not the very special circumstances necessary to justify inappropriate development within the Green Belt.
14. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR