

Appeal Decision

Site visit made on 2 November 2017

by C J Leigh BSc(Hons) MPhil MRTPI

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

Decision date: 07 December 2017

Appeal Ref: APP/M3645/D/17/3181259

Apsley, Wilderwick Road, East Grinstead, RH19 3NT

- 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 Brian Rudd against the decision of Tandridge District Council.
 - The application Ref TA/2017/819, dated 19 April 2017, was refused by notice dated 22 June 2017.
 - The development proposed is the erection of a new garden wall.
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Decision

1. The appeal is allowed and planning permission is granted the erection of a new garden wall at Apsley, Wilderwick Road, East Grinstead, RH19 3NT in accordance with the terms of the application Ref TA/2017/819, dated 19 April 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plan P1986-150.

Main issues

2. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect of the proposal on the rural character and appearance of the area;
 - The effect on the living conditions of the neighbouring property, Apsley Limes Farm, with particular regard to visual impact; and
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.
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Reasons

Whether the proposal is inappropriate development and the effect on openness

3. The construction of new buildings within the Green Belt is generally regarded as inappropriate development. However, the Framework sets out at paragraphs 89 and 90 certain forms of development that are to be considered, by exception, to not be inappropriate. Policy DP10 of the Tandridge District Local Plan Part 2 (2014) reaffirms this approach.
4. The Council consider that the proposed wall is a building and hence, since the wall does not fall within any of the criteria of paragraph 89, the development is inappropriate. The Glossary to the Framework does not refer to a 'building', but the term is defined as follows in section 336 of the 1990 Act:

"building" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.
5. If accepted as a building by definition, the proposed wall would not meet any of the exceptions set out and would consequently be inappropriate development.
6. I consider that regard must be paid to the purposes of the proposed development. It is clearly a boundary wall, which would run alongside the entire northern boundary of the site. As well as the boundary demarcation role, it would provide privacy, shelter and – with a southerly aspect – the large area the appellants seeks to enable growing of plants in the traditional fashion of large Georgian country properties, such as Apsley.
7. However, even were I to consider that the proposal represents an engineering operation, of the type addressed in Paragraph 90 of the Framework, such operations should preserve the openness of the Green Belt and not conflict with the purposes of including land in Green Belt.
8. The proposed wall would run the length of the northern boundary of the site and would replace an existing deep and tall bank of somewhat overgrown vegetation. The scale of this amount of development would reduce openness across the northern part of the site. There would not be any conflict with the purposes of including land within the Green Belt. However, due to the effect on openness the proposed development would not satisfy the requirement of paragraph 90, and it would therefore represent inappropriate development. That is, by definition, harmful to the Green Belt and in conflict with the Framework and Policy DP10 of the Local Plan.
9. The wall must therefore be considered as inappropriate development, which is by definition harmful to the Green Belt. I attach substantial weight to this harm and moderate weight to the harm I have identified regarding the effect on openness.

Effect on character and appearance and the living conditions of neighbouring occupiers

10. Apsley is a large property on a very large plot, with a distinctive character of a small country house. I agree with the appellant that tall garden walls to rural properties such as these can be as much a part of the character of the countryside as open rural areas.

11. The existing area of overgrown vegetation does not provide a particularly notable setting for the attractive main house. I concur with the appellant's submissions that the provision of a distinctive garden wall, in the tradition of a kitchen garden, would enhance the appearance of the property and not be harmful to the rural area.
12. I note the letter written by the neighbour in support of the proposal and my own judgement is that the siting of this wall and its height would not be harmful to the living conditions of the occupiers of the adjoining property.
13. Thus, there would not be any conflict with Policies DP7 and DP8 of the Local Plan, or Policy CSP18 of the Tandridge District Core Strategy 2008, the general thrust of which is to seek a high standard of design in all new development proposals.

Other considerations

14. The Framework advises that 'very special circumstances' to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
15. In this case, I am mindful that permitted development rights exist for the erection of a 2m high wall along this northern boundary. It is evident from the appellant's submissions that he wishes to erect a wall on this boundary; there have been two previous applications for a wall of greater height. This current submission is for a wall up to 2m high for around 23% of the total length (using the appellant's figures). The other parts of the wall rise to a maximum of 2.5m, and there are gaps for railings around retained trees.
16. In my view, this variation in height of the wall –rising to 2.5m – results in a wall that responds suitably to the changing landform of the site. The design of the wall would be punctuated by two areas of railings in order for tree retention. I have commented in respect of the second main issue that the provision of a wall to a country house can be a characteristic feature of rural areas, and in my view the design of the proposed wall represents a high standard of design that will complement the area, and the setting of the house. I give this significant weight in favour of the scheme.
17. Furthermore, based on what I have read and seen, I have little doubt that the appellant would pursue a permitted development scheme of a wall up to 2m height. This would be a less attractive design than the current scheme as it would not offer the varied height that responds to the changing landform of the site. I also consider there is little material difference in the effect on openness arising from the height of the proposed wall and that which could occur under permitted development.
18. I give substantial weight to the likely delivery of an alternate wall design that would be of very similar height and scale to that proposed.

Very Special Circumstances

19. Overall, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

20. The appeal is therefore allowed. The submitted drawings and application form indicate brickwork and wrought-iron railings to be used in the new works. I have attached a condition specifying the relevant drawings as this provides certainty.

C J Leigh

INSPECTOR