
Appeal Decision

Site visit made on 1 August 2019

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 30 August 2019

Appeal Ref: APP/Q3630/C/18/3218501

The Caduceus, Hardwick Lane, Lyne, Chertsey, Surrey KT16 0AA

- The appeal is made by Helena Graham under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: RU.19/0426 and 16E00167) issued by Runnymede Borough Council on 9 November 2018.
 - The breach of planning control alleged in the notice is "the unauthorised erection of a wall adjacent to a highway which exceeds one (1) metre in height and is located between points A to B and located in the area hatched black on the attached Plan".
 - The requirements of the notice are as follows: -
 - "5.1 Remove those parts of the wall, including the pedestrian gate, that are in excess of one (1) metre in height and located between points A and B in the area hatched black on the attached Plan.
 - 5.2 The requirement of paragraph 5.1 above shall not apply to the original brick built wall located adjacent to Point A on the Plan."
 - The period for compliance with these requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g). Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting a breach of planning control.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

Reasons for the decision

Ground (a)

2. The wall (or fence as it is sometimes referred to in the appeal representations) has been erected along most of the very wide frontage of the appellant's land, next to the grass verge which is part of the public highway. It is about 2.1m high and consists of a series of capped concrete pillars between which panels of polystyrene reinforced with fibre-cement skins have been slotted. All the materials used are coloured white.
 3. The wall is in the Green Belt and the main issues in deciding whether planning permission should be granted for its erection are as follows: -
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- (i) Whether its erection constitutes inappropriate development in the Green Belt for the purposes of Policy GB1 of the Runnymede Borough Local Plan 2001, the National Planning Policy Framework 2019 “(the Framework)” and the Government’s current planning practice guidance “(the PPG)”.
 - (ii) Its effect on the openness of the Green Belt and on the character and appearance of the street scene.
 - (iii) If it does constitute inappropriate development in the Green Belt, whether the harm by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, does this amount to the very special circumstances required to justify its erection?
- 4. Policy GB1 of the Local Plan states that in this part of the Green Belt there will be a strong presumption against development that conflicts with the purposes of the Green Belt or adversely affects its open character. The Framework states that the Government attaches great importance to Green Belts and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It adds that the essential characteristics of Green Belts are their openness and their permanence. The PPG states “openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume”.
 - 5. The Framework states that the construction of new buildings is inappropriate in the Green Belt, subject to certain exceptions. If the wall in this appeal is treated as a building (on the basis that buildings are defined in the Town and Country Planning Act 1990 to include any structure or erection), it would not fall within any of the exceptions. It is also too high to be permitted development (which is allowed in the Green Belt). The only other possible exception listed in the Framework is engineering operations (which are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it), but I do not consider that the erection of this wall is an engineering operation, since it did not involve significant earthworks or works requiring supervision by an engineer.
 - 6. The list of exceptions in the Framework is a closed list. Since walls and fences are not mentioned and the erection of this wall does not fall within the scope of any of the exceptions, I have concluded that its erection constitutes inappropriate development in the Green Belt for the purposes of Policy GB1 and the Framework.
 - 7. The Framework declares that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It indicates that when planning applications are considered, substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations.
 - 8. Harm to the Green Belt arises in this instance because of the visual impact the wall has on the openness of the Green Belt. The harm is significant and arises because of a combination of the wall’s undue height close to the roadside, its great length and its bright colour. For the same reasons, the wall is significantly harmful to the character and appearance of the street scene,

which is distinguished by its predominantly rural appearance, with roadside features that are either mature hedges and trees or fences or walls that are more suited to the street scene in their design and appearance and the materials used in their construction.

9. I turn now to whether considerations arise in this instance that might outweigh the harm identified in paragraph 8 above. I understand that the panels may assist in providing an acoustic barrier against traffic noise from the road and from the nearby M25 motorway, but I have not been provided with any technical information about their effectiveness in this regard. The appellant has offered to attach trellis to the panels; this would add to the wall's bulk; any planting would take time to become established; and it would not be possible to grow plants up the trellis that were not planted in the highway or would not overhang the highway if they could be planted within the appellant's land. The appellant has also pointed out that the Council have not taken action against the erection of the same type of walls at the sides of her land: the permitted development height is, however, higher here.
10. In my opinion these considerations are not substantial and do not outweigh the harm identified in paragraph 8 above. The very special circumstances required to justify inappropriate development in the Green Belt do not exist and planning permission for the wall has therefore been refused in order to preserve the openness of the Green Belt and the character and appearance of the street scene. The appeal on ground (a) has failed.

Ground (f)

11. Under ground (f) the appellant has put forward matters that have already been considered under ground (a). The requirement in the notice is the minimum necessary to remedy the breach of planning control and the injury to amenity. The appeal on ground (f) has therefore failed.

Ground (g)

12. The appellant seeks an extension of the period allowed for compliance with the notice from six months to nine months to allow for adverse weather and ground conditions. I agree with the Council that six months is a reasonable period of time to allow for what would be straightforward works of alteration. The appeal on ground (g) has therefore failed.

D.A.Hainsworth

INSPECTOR