



Appeal Decision

Site visit made on 24 September 2019

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2019

Appeal Ref: APP/T2215/W/19/3233005

The Nursery, Green Street Green Road, Green Street Green, Dartford, Kent DA2 8DP

- 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 D Keys against the decision of Dartford Borough Council.
 - The application Ref DA/18/00894/FUL, dated 11 July 2018, was refused by notice dated 22 January 2019.
 - The development proposed is the erection of a 1.9m-2m high front boundary wall (western section between points A and B on the submitted plans).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development has been amended from that on the application form and the Appellant has adopted the revised description on their appeal form. However, as noted by the Appellant in their statement and what I observed on site, the wall has not been completed and it would not be accurate to describe the wall as being retrospective even though it has been largely completed. Furthermore, the fact that the wall has been largely completed does not have any effect on the assessment of the planning merits of the development. I have therefore removed all references to whether the wall is retrospective from the description of the development.
3. At my site visit I saw that a brick wall had been built around the entirety of the appeal site. The height of this wall varies and parts of it appeared to be greater than two metres in height. Notwithstanding that, I have limited my consideration to the section A-B on the submitted plans as the appeal application specifically states that this is the section to which the proposal relates.

Main Issues

4. The main issues are:
 - (i) whether the proposal is inappropriate development in the Green Belt;
 - (ii) the effect on the openness of the Green Belt;
 - (iii) the effect of the development on the character and appearance of the area; and

- (iv) 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

Whether the proposal is inappropriate development in the Green Belt

5. Paragraph 133 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 145 and 146, set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.
6. The Appellant has questioned whether a wall would be a building for the purposes of paragraphs 145 and 146. However, according to s336 of the 1990 Act, the term 'building' refers to any structure or erection. Therefore, this would apply to a boundary wall and as such must be considered as being a building for the purposes of paragraphs 145 and 146 and not an engineering operation.
7. Notwithstanding that, my attention has been drawn to paragraph 145(c) which states that the extension or alteration of a building providing it would not result in a disproportionate addition over and above the size of the original building would not be in appropriate development.
8. From the evidence before me, the boundary treatment prior to the construction of the new wall consisted of fencing and a low-level wall fronting Green Street Green Road. The new wall therefore cannot be considered to be an extension or alteration to that wall as it has been completely removed and replaced.
9. As I understand it, only the section of the wall marked B-C on the submitted plans has the benefit of planning permission¹ granted by the Council. The remainder of the wall (not part of the appeal application) is claimed to have been constructed using permitted development rights. Both main parties have drawn my attention to various Certificate of Lawful Development applications although to my knowledge none of these related to the other parts of the wall around the site.
10. Notwithstanding that, I noted at my site visit that some parts of the wall were in excess of 2 metres in height, particularly where the adjoining land varied in level. Given that the wall around the site is one wall, it must be considered the majority of it does not have the benefit of planning permission nor does it fall within the height criterion to be permitted development. Taking this into account, I can only give the other parts of the wall very limited weight in the consideration of the appeal proposal.
11. Therefore, in consideration of the exemptions to inappropriate development outlined at paragraph 145(c) the appeal proposal must be judged against the section of the wall which has planning permission.

¹ Reference 18/00893/FUL

12. The appeal section of wall represents a significant addition to the part of the wall which already has planning permission, being only slightly less in length than the permitted wall. Whilst there is no definition of what would constitute a disproportionate addition in the Framework, Policy DP22 of the Dartford Development Policies Plan (2017) (DPP) sets out that extensions to buildings must constitute no more than a 30% volumetric increase over and above the original footprint. Whilst this does not exactly fit with the proposal before me, it gives an indication of what is considered to be disproportionate.
13. Taking that into account, and the fact that the appeal section of the wall is nearly half the length of the lawful wall it is my view that this would indeed be disproportionate. Therefore, the proposal would not fall within the exemption criterion at paragraph 145(c).
14. I therefore conclude that the proposal would be inappropriate development in the Green Belt as it would not accord with any of the exemptions outlined at paragraphs 145 or 146 of the Framework. It would also be contrary to Policy CS 13 of the Dartford Core Strategy (2011) (CS) and Policy DP22 of the DPP which amongst other matters seeks to resist inappropriate development.

Effect on the openness of the Green Belt

15. One of the five purposes of a Green Belt, outlined at paragraph 134 of the Framework, is that it should assist in safeguarding the countryside from encroachment.
16. The appeal site consists of a residential property which is currently undergoing renovation. At my site visit I saw a mobile home on site and there was also a building under construction at the western end of the site.
17. From the evidence before me, prior to the construction of the wall at the road frontage, there was a low wall which allowed for views across the site.
18. In contrast to the former position, the appeal proposal prevents any views across the site, and beyond, and would lead to a loss of Green Belt openness. Whilst such a loss of openness is not significant, it nevertheless has a negative perceptible impact.
19. In coming to that view, I acknowledge that the site has an element of landscape screening at each end of the wall which helps in its visual integration in the streetscene. However, this does not overcome the loss of openness.
20. I therefore conclude that the development would lead to a loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment contrary to the Framework and Policy CS 13 of the CS and Policy DP22 of the DPP which amongst other matters seek to protect the openness of the Green Belt.

Character and appearance

21. The appeal site is located on the north side of Green Street Green Road where there is little built form in the area. At my site visit I also saw a variety of other boundary treatments and their context, including those drawn to my attention at Darenth and Sutton at Hone. However, those walls I observed are in located in areas which have a much greater degree of development and therefore the character of the area differs significantly when compared to the appeal site.

22. I am also conscious that the section of the wall marked B-C on the plan already benefits from planning permission. However, as noted by the Council, the impact of this wall is significantly reduced by the existing landscaping to the roadside which significantly softens the walls harsh appearance in this rural area.
23. Turning to the appeal wall, given its siting close to the carriageway there is little opportunity for any landscape screening and as such it is visually prominent from the roadside to the detriment of the generally open rural character of the area. Whilst there is some screening as you approach the site from both directions along the adjacent road, this does not overcome the harm of a high wall in this location where no other properties have such a feature in the immediate environs of the site.
24. I have also had regard to a potential fallback position of a one metre high wall and that the remainder of the property curtilage could have a wall which would not be greater than two metres in height without any planning permission. However, the siting of the wall around the rest of the property curtilage would not have the same degree of visual impact on the streetscene. Additionally, the appeal development has a significantly greater visual impact than the fallback position of a one metre high wall.
25. For the above reasons the development would harm the prevailing rural character and appearance of the area and would conflict with Policy DP2 of the DPP which amongst other matters seeks to ensure that development responds positively to the locality.

Other considerations

26. The Appellant has outlined that the wall will provide a private rear garden area for children and pets to play without risk of them accessing the road, will assist in reducing noise and air pollution to the property from the road, screen domestic paraphernalia and would enhance the appearance of the street scene. It is also noted that the wall has resulted in the closure of a vehicular access to the property which has had road safety benefits.
27. With the exception of the impact of the proposal on the streetscene, which I have already found to be harmful, all of the other matters raised weigh in favour of the development.

Green Belt balance

28. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have also found that there is an adverse impact on the openness of the Green Belt and to the character and appearance of the area. Therefore, substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.
29. The factors which weigh in favour of the development are modest when considered both individually or cumulatively. In considering the substantial weight given to the Green Belt, to my mind, the benefits outlined above do not clearly outweigh the harm to the Green Belt. Therefore, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify

the development do not exist and the proposal would conflict with the Framework and Policy CS 13 of the CS and Policy DP22 of the DPP.

Conclusion

30. For the reasons given above, including some support for the proposal, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR