
Appeal Decision

Site visit made on 5 November 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

Appeal Ref: APP/L3625/D/19/3234951

High Wold, Shepherds Hill, Merstham RH1 3AD

- 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 Alan Owens against the decision of Reigate & Banstead Borough Council.
 - The application Ref 19/00557/HHOLD, dated 17 March 2019, was refused by notice dated 11 July 2019.
 - The development proposed is described as 'We are seeking permission for a 1.8 metre fence positioned at the boundary which adjoins the road'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council have confirmed that since the determination of the planning application there has been a change in the adopted development plan with the adoption of the Reigate & Banstead Local Plan Development Management Plan (DMP) in September 2019. The DMP has superseded Reigate & Banstead Borough Local Plan 2005 policies including Ho9 which are now no longer relevant despite being referred to in the decision notice. The Reigate & Banstead Core Strategy 2014 (CS) referred to in the decision notice does however remain extant. The DMP policies now carry full weight. In light of the changes, the main parties have had opportunity to comment on the policy changes and whether they have any bearing on the appeal. My findings take account of their comments and I have considered the appeal against the current development plan policies.
3. The site falls within the Metropolitan Green Belt. Harm to the Green Belt did not form part of the reasons for refusal for the planning application and the views of the parties were sought in this regard. Whilst I acknowledge these comments, it is incumbent on me to consider Green Belt issues in determination of this appeal.

Main Issue

4. Accordingly, the main issues are:
 - Whether or not the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;

- The effect of the development on the openness of the Green Belt and the character and appearance of the area; and
- 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

5. The appeal site is situated within a countryside location, with properties positioned within generally large plots. Predominantly the enclosures fronting Shepherds Hill comprise of hedgerow and other vegetation, providing a rural character to the street scene. The area is defined as an Area of Great Landscape Value (AGLV) and Area of Outstanding Natural Beauty (AONB).

Whether the proposal would represent inappropriate development

6. The Framework states in paragraph 145 that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions. The term 'building' refers to any structure or erection and it therefore includes fences. Although the fence would replace an existing fence in situ, from the evidence before me this enclosure does not benefit from planning permission. As such for the purposes of paragraph 145 the proposal would be inappropriate development in the Green Belt.

Openness

7. Openness can be defined as an absence of built form. In that the proposal would introduce a solid, man-made feature, the openness of the Green Belt would be reduced but only to a very limited degree.

Character and appearance

8. Given its height, length and prominence, the existing enclosure forms a large, obtrusive and incongruous feature in the immediate street scene at odds with the prevailing character that is generally rural and verdant. Whilst the appeal proposal seeks to reduce the height of the existing fence, I am not persuaded that this would adequately mitigate the harm observed. As such the fence as proposed would appear as a discordant and dominant feature that would be visually intrusive and harmful to the street scene.
9. For these reasons, the development would have an adverse impact on the character and appearance of the area. The proposal would therefore be contrary to policy CS4 of the CS and policy DES1 of the DMP that seek, amongst other things that development should respect the character of the surrounding area.

Other Considerations

10. The appellant contends that the harm identified could be addressed through the introduction of artificial hedge or foliage affixed to the front of the fence, and that in time natural vegetative cover will develop. On the evidence before me, I am not persuaded that this could either be implemented or assimilate effectively with existing natural vegetation. Similarly, whilst natural vegetation may provide a degree of relief in the longer term, owing to the position and height of the fence, I do not consider that this would be effective, particularly

in the short to medium term. In any event, these are the sort of matters that would need to be considered in detail at this stage and not by planning condition, and inadequate detail has been provided at this time. As such I attribute this limited weight in favour of the proposal.

11. It is suggested that the appeal development would offer increased security for occupiers of the property and mitigate noise and light pollution from the adjacent highway. However, no substantive evidence has been provided to demonstrate any such requirement; the specific sound or light attenuation qualities of the fence; nor am I persuaded that an alternative form of boundary enclosure, including a hedge, could not serve the identified purposes equally as well. As such, I give these matters little weight in favour of the proposal.
12. It has been brought to my attention that the fence would improve highway safety offering protection to occupiers of the property. I have not been provided with any substantive evidence to demonstrate that the fence would provide an effective barrier, nor do I consider that there is strictly a requirement for such. Furthermore, I consider that potential maintenance issues relating to a hedgerow effecting pedestrian mobility or road user visibility, would not be out of the ordinary or result in a presumption for a form of enclosure as proposed under this appeal. As such I attribute these matters limited weight in the balance.
13. I acknowledge that there are other fences of a commensurate height fronting onto Shepherds Hill. However, such examples are not commonplace, and I am unaware of the particular circumstances of each case. In any event, each case must be assessed on its individual planning merits and having regard to the context of the appeal development, I give this minimal weight in favour of the proposal.
14. The appellant has indicated that owing to the sloping nature of the site that there are limited alternative positions for the erection of a fence. However, I do not find this a persuasive argument in favour of the proposal and have considered the proposal on its planning merits. As such I afford this minimal weight in the balance.
15. I acknowledge that the Council have not raised objections to the proposals in terms of their wider harm to the AONB or AGLV. However, these factors are to be expected in such situations and are to my mind neutral in the planning balance.

Other Matters

16. The appellant refers to policy DES2 as being of relevance. Noting that this relates to the development of residential garden land including infilling schemes and back garden land, I do not consider that it is directly relevant to the proposal and as such attribute this little weight in my determination of the appeal.

Planning Balance

17. The proposal would be inappropriate development in the Green Belt, would also harm the openness of the Green Belt and the Framework makes clear in paragraph 144 that substantial weight should be given to such harm. The fence would also be detrimental to the character and appearance of the street scene.

18. Against this has to be balanced the factors in favour of the proposal (other considerations) which I have found to cumulatively carry limited weight. Consequently, these considerations do not clearly outweigh the identified harm to the Green Belt or character and appearance of the street scene so as to amount to the very special circumstances necessary to justify the development.

Conclusion

19. Therefore, for all of the reasons given above I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR