



Appeal Decision

Site visit made on 2 December 2019

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th January 2019

Appeal Ref: APP/G2245/D/19/3233977

Lewins Lodge, Main Road, Crockham Hill TN8 6RB

- 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 Daniel Rawlins against the decision of Sevenoaks District Council.
 - The application Ref 19/01066/HOUSE, dated 7 April 2019, was refused by notice dated 31 May 2019.
 - The development proposed is described as '*erection of 2.5m high tongue and groove acoustic fencing, within the boundary of the property to reduce excessive noise, air and light pollution to the property resulting from both the level and excessive speed of traffic along the B2026*'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 2.5m high tongue and groove acoustic fencing at Lewins Lodge, Main Road, Crockham Hill TN8 6RB in accordance with the terms of the application, Ref 19/01066/HOUSE, dated 7 April 2019 and the plans submitted with it, subject to the following condition:
 - 1) Within 3 months of the date of this permission a scheme of additional soft landscaping between the fence and the B2026 shall be submitted to and approved in writing by the local planning authority. All planting comprised in the approved details shall be carried out in the first available planting season following approval of the details and any trees or plants which within a period of 5 years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Procedural Matters

2. It is evident from the submissions and my site visit that the development applied for has been carried out. I have determined the appeal on that basis. I have deleted the reference to the reasons for the development proposed in the formal decision above as this is superfluous.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt.
 - The effect on the openness of the Green Belt.

- The effect on the character and appearance of the area, including the Kent Downs Area of Outstanding Natural Beauty ('AONB').
- If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether inappropriate development

4. The appellant has referred me to the exception for engineering operations under paragraph 145 of the National Planning Policy Framework ('the Framework'). However, the term building as defined in Section 336 of the Town and Country Planning Act 1990 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*'. Although the Framework itself does not define a building, in my view the development proposed is not an engineering operation and should be regarded as a 'building' for the purposes of this appeal.
5. The proposal would not be covered by any exception within either paragraph 145 or 146 of the Framework and should therefore be regarded as inappropriate development within the Green Belt. In accordance with paragraph 144 of the Framework, I attach substantial weight to the harm, by reason of inappropriateness.

Openness

6. Consideration of openness can include both spatial and visual aspects. In the sense that this is development along a residential boundary, where previously there appeared to have been none, there is a change to openness. However, I observed a shallow bank in front of the fence containing mature and taller shrubs, hedging and trees. Although some planting was deciduous for a significant period of the year, the landscaping appears to grow to the same height as the fencing¹ so this would not allow for any views of the appeal property or any sense or perception of openness.
7. There were some gaps in the planting, perhaps caused in constructing the fence, but it is only glimpsed fleetingly as you pass the site as either a pedestrian or in a vehicle and is set within and behind such landscaping. In combination with much taller trees immediately behind the fence, it does not appear visually dominant and the eye is not unacceptably drawn to it. Given the extent of the land to which the appeal relates, a condition could be imposed securing additional landscaping to fill the gaps and ensure acceptable coverage is maintained all year round and I note this is something the appellant has offered. Overall, although openness is not preserved having regard to both spatial and visual aspects the harm to openness is negligible.

Character and appearance

8. There is a requirement, set out in legislation and reflected in the Framework to conserve and enhance the natural beauty of such areas. The delegated report however does not provide me with any real understanding of the distinctive

¹ Cover photo of appellant's statement of case.

landscape character that the Council contends is harmed by the proposal. Human settlement and associated development such as residential boundary fencing, of various forms and heights, is entirely typical and part and parcel of human habitation within the AONB. More specifically, the landscape character and appearance of the AONB at this point also includes long established timber fencing opposite the appeal site and other established examples of fencing surrounding residential properties within the wider locality that I was able to observe.

9. The fencing opposite runs for a considerably greater length than the proposal before me and has little landscaping to screen it. The fence before me is screened and is much shorter in length. It is constructed from high quality materials which will weather appropriately, further softening its appearance and blending it more into the landscaped boundary. There is no important view that needs to be conserved and in such a context the fencing is not incongruous and does not cause harm to the character of the area or the appearance of the Crockham Hill streetscene.
10. The proposal greatly enhances the tranquillity of the appeal site and area for residential occupation by reducing noise, air and light pollution from the B2026. There would also be a small environmental enhancement through additional soft landscaping. Taking everything together and on the evidence before me, the proposal does not cause harm to the character and appearance of the area and conserves and enhances the landscape and scenic beauty of the AONB. It is the high quality design required by Policy EN1 of the Sevenoaks Allocations and Development Management Plan 2015 and there is also no conflict with the relevant aims and objectives of the Westerham Design Guide 2018.
11. Although the Council have referred me to Policy EN4 in the second reason for refusal that policy refers to heritage assets to which they do not object². The Council probably meant to refer to Policy EN5 and even if that was the case, the proposal accords with its objectives of only permitting development where the form, scale, materials and design would conserve and enhance the character of the landscape. In Framework terms there would be no conflict with the natural environment, landscape or design objectives of national planning policy.

Other Matters

12. I have had regard to my statutory duty in respect of the setting of nearby heritage assets and I share the view of the Council that the setting of Lewis, a Grade II listed building is not affected given the degree of separation from the appeal site. I have not therefore considered this matter any further.

Other considerations

13. The host property was constructed at a time when levels of car ownership and vehicle trips were much lower and I also observed traffic speeds that appeared higher than the 30mph limit and on a well-worn rural road surface. Traffic noise was clearly and harmfully audible at and around the entrance but within the side garden and closer to the property there was a noticeable reduction as vehicles passed the fence. Whilst I accept that I do not have detailed noise or air quality assessments before me, what I saw and heard indicates to me that

² Council's delegated officer report.

those effects would be considerably more harmful to the living conditions of occupants if the fence was not in place. This would also be the case for air and light pollution effects. Ultimately, this would make the property and area a much less habitable place to reside and in this particular case I afford this consideration considerable weight.

14. The appellant contends a fallback position also exists in terms of permitted development rights³. Having regard to the relevant case law, if the development taking place is more than a theoretical possibility, then it is material. Secondly, only if it satisfies that requirement does any assessment of its weight fall to be determined. Given the nature of the development, a domestic fence, there is a theoretical possibility works could take place to reduce its height. This is either by 200-400mm as the appellant suggests⁴ or slightly more following the description of development. For what is a relatively short length of screened fencing the effect of such a reduction would be imperceptible in its surroundings and to those vehicles and pedestrians passing the site. Such a reduction is also likely to reduce the protection it currently offers and overall the fall-back position weighs significantly in favour.

Planning balance and conclusion

15. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that 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, is clearly outweighed by other considerations.
16. In this case the other considerations are compelling and to my mind, clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness and the negligible harm to openness that I have identified. Consequently, the very special circumstances necessary to justify the development do exist.
17. Drawing everything together, the proposal accords with the development plan, when taken as a whole. As such and on the evidence before me it should be approved without delay, in accordance with paragraph 11 c) of the Framework and is therefore sustainable development. Material considerations, including the Framework do not indicate that a decision should be taken other than in accordance with the plan.
18. For the reasons set out above and having considered all other matters raised, including the representation from Westerham Town Council, I conclude that the appeal should be allowed. As the development has been carried out only a condition requiring details of additional landscaping to be submitted, agreed, implemented and maintained is necessary, in the interests of the character and appearance of the area.

Richard Aston

INSPECTOR

³ Part 2, Class A, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015).

⁴ Paragraph 2.6 of appellant's statement refers to the fence being 2.2-2.4m in height, not 2.5m.