



Appeal Decision

Site visit made on 7 November 2019

by Timothy C King BA (Hons) MRTPI

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

Decision date: 3 February 2020

Appeal Ref: APP/H1515/C/19/3223943

Land known as Oakhurst Farm, Coxtie Green Road, Pilgrims Hatch, Brentwood, Essex CM14 5RP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Gainsborough Corporation Limited against an enforcement notice issued by Brentwood Borough Council.
 - The enforcement notice was issued on 6 February 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of brick walls with pillars and gates in excess of 1.0 metre high adjacent to the highway. Shown for the purpose of identification only in the approximate position, shaded blue on the attached site plan.
 - The requirements of the notice are to:
 1. Permanently remove the brick walls with pillars and entrance gates *or* reduce the height to one metre or less (shown for the purpose of identification only in the approximate position shaded blue on the attached site plan).
 2. Permanently remove all matter arising from compliance with Step 1 above to a place authorised to receive such waste.
 - The period for compliance is Three (3) months from the date upon which this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Formal Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background

2. In January 2018, following an application made, the Council determined that prior approval would be required for the siting, design and external appearance of the building for an agricultural building to house and dry store animal feed hay from the land. Subsequent to a follow-up application, approval was given in March 2018.
3. Although the initial submission included an indicative drawing showing a simple, illustrative plan of the site, including its access, this was not seemingly elaborated on at the second stage. Certainly, I have not been presented with any detailed drawing to suggest otherwise. In the absence of any information

to the contrary it is my understanding that prior approval was given only for the building itself.

4. The splayed walls to the access were subsequently erected, with steel gates hung between. In considering that this had an adverse effect on the openness of the Green Belt, the Council decided it expedient to issue an enforcement notice.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issues

5. The site lies within the Metropolitan Green Belt. In the circumstances, the main issues in this case are:
 - 1) whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and, directly connected with this, the effect of the proposal on the openness of the Green Belt; and
 - 2) if it is inappropriate development whether the harm by reason of inappropriateness, and by reason of 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 Inappropriate development and Openness

6. All development within the Green Belt is considered inappropriate unless it falls into one of the exceptions set out in paragraphs 145 and 146 of the National Planning Policy Framework (the Framework). Taking the wall and gates as operational development under s55 of the 1990 Act as amended I do not consider that the development falls within any of the stated exceptions. Even if the term 'engineering operation' was applied this would only satisfy the exception if the development would preserve the Green Belt's openness, an essential characteristic of the Green Belt, and would not conflict with its purposes.
7. In this particular instance, due to its expanse and the colour of brickwork used, I consider that the development is so obtrusive in its contextual setting as to be clearly at odds with the design objectives of policy CP1 of the Brentwood Replacement Local Plan (BRLP). Moreover, from my site visit observations I must agree with the Council's comment that Coxtie Green Road is separated from fields beyond by a combination of low-level hedging, trees and low wooden fencing. With the development's general height in excess of 2m, its incongruity compounds matters and, accordingly, I also find it is contrary to the requirements of BRLP policies GB1, GB2 which are concerned with development within the Green Belt.
8. Given this, I find it inappropriate development in the Green Belt for the purposes of the Framework, and also harmful to its openness.

Planning Balance

9. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. In this respect,

from my findings on the first main issue I must assess whether the appellant has demonstrated the very special circumstances necessary in order to outweigh the presumption against inappropriate development in the Green Belt, which is by definition harmful thereto.

10. The appellant mentions the costs of erecting the new agricultural barn and also stresses the continuing problem of security in rural areas, with figures to show that thefts of farm machinery and equipment is at an all time high in the south east of England. It is also mentioned that the walls, gates and concrete apron were erected and laid with a set back from the highway to allow for HGVs and farm machinery vehicles to safely pull off Coxtie Green Road whilst the gate is opened.
11. Although I am satisfied that the visibility splays are adequate and the development is not prejudicial to the free flow of traffic and highway safety in general there is nothing to demonstrate that any alternative methods of security for the site have been considered nor that some other form of security would not achieve a similar benefit. Further, there is nothing to specifically demonstrate why the development needs to be at the height it is nor why the particular brick type was employed.
12. No obvious alternative scheme has been put forward by the appellant, nor any articulated fall-back position advanced. Neither is there anything which would indicate that mitigation measures have been considered. As such, it would not appear that the option of reducing the development to a height not exceeding 1m has been contemplated by the appellant, with no proposals before me to show any such modification.
13. Instead, the appellant considers that the development should be seen in the context of other various entrances to local properties for which photographs have been supplied. However, I have not been provided with details of the developments' respective planning positions, the relevant application references, specific details of the proposed developments, nor any analysis to show why parallels with the appeal scheme might be reasonably drawn. The example shown at Winterleigh Hall Farm might look similar but, in the absence of any such details or indication of context, I must afford these representations limited weight.
14. The appellant claims that the Council did not engage before taking enforcement action and I have seen nothing from the Council to suggest that any dialogue was entered into in this respect. Nonetheless, whilst the Council's protocol on the enforcement of planning control might encourage exploring negotiation, the unauthorised works were carried out at the owner's risk. Indeed, it is the owner's responsibility to make enquiries as to whether proposed works require the benefit of planning permission, and decide on the most appropriate way of trying to secure this.
15. Taking everything into account I conclude that the necessary very special circumstances have not been demonstrated.

Overall Conclusion

16. The walling and gates erected, together constitute inappropriate development in the Green Belt, and the development is also harmful to its openness. In the absence of very special circumstances to outweigh the inappropriateness the

proposal is in material conflict with advice in the Framework and also relevant policies cited in the BRLP.

17. Accordingly, for the reasons given, and having had regard to all matters raised, the appeal on Ground (a) fails and planning permission, by way of the deemed planning application made, is refused. The enforcement notice, as set out in the Formal Decision, is therefore upheld

Timothy C King

INSPECTOR