



Appeal Decision

Site visit made on 21 January 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2020

Appeal Ref: APP/K3605/W/19/3239813

Fox Wood Estate, Burwood Road, Walton-on-Thames KT15 4ES

- 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 Fox Wood Management against the decision of Elmbridge Borough Council.
 - The application Ref 2019/2016, dated 21 July 2019, was refused by notice dated 13 September 2019.
 - The development proposed is replacement entrance signage, relocation of phone entry system and minor alterations to private access road.
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Decision

1. The appeal is allowed and planning permission is granted for replacement entrance signage, relocation of phone entry system and minor alterations to private access road at Fox Wood Estate, Burwood Road, Walton-on-Thames KT15 4ES in accordance with the terms of the application reference 2019/2016 dated 21 July 2019 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: HA18-032 P201, HA18-032 P202, HA18-032 P203, HA18-032 P204 and HA18-032 P205.
 - 3) The development shall not be carried out other than in the following materials:
Walls: brick to match existing gate piers to the Fox Wood Estate with stone coping.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no external lighting equipment additional to that indicated by the approved plans shall be installed or used to illuminate the signage hereby permitted.

Application for Costs

2. An application for costs was made by Fox Wood Management against Elmbridge Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description in the banner heading above is taken from the application form, although the Council amended the description given on the decision notice to '2 externally illuminated entrance signs and piers to a height of 1.1m,

relocation of the entry call system and alterations to the access road' and this amended description was also entered on the appeal form. I have considered the appeal on that basis and in accordance with the details shown on the submitted plans.

4. The postcode of the appeal site is given variously within the evidence before me. I have used the postcode as it is stated on the application form, appeal form, and the Council's decision notice in my decision and the banner heading .

Main Issues

5. The main issues in this appeal are:
 - i) whether or not the proposal would be inappropriate development in the Green Belt;
 - ii) the effect of the proposal on the openness of the Green Belt; and
 - iii) if the development would be inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development in the Green Belt

6. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework identifies the construction of new buildings as inappropriate in the Green Belt, although exceptions to this include the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. Paragraph 146 further highlights that certain other forms of development including 'engineering operations' are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it which are specified at paragraph 134 of the Framework. Policy DM18 of the Elmbridge Local Plan Development Management Plan 2015 (DMP) conforms to the thrust of national Green Belt policy in these respects.
7. The proposed development comprises 3 main elements; alterations to the access road between Burwood Road and the gates to Fox Wood; a replacement entry call system; and the replacement of 2 signs at the entrance to Fox Wood.
8. The alterations proposed to the access road would increase its width by reducing the width of the footpaths at either side, and would alter the surfacing materials to include strips of granite setts. I agree with the Council that these works would be an engineering operation which would not impact on the openness or the purposes of the Green Belt, and accordingly I find that the alterations to the access road would be not inappropriate in the Green Belt.
9. The proposed replacement entry call system is shown to be of comparable height above the road surface to the existing post, but it would be more than double the width and depth of this structure. The 2 signs proposed would each comprise a wall between two brick piers with the name 'Fox Wood' on a stone panel. These features would be of significantly greater height, depth and width than the existing small panels supported by posts.

10. The proposed entry call system and signs would therefore be materially larger than the ones that they would replace, and the increase in scale would have a greater impact on the openness of the Green Belt than the existing development on the site. As a consequence, these elements of the proposal would constitute inappropriate development in the Green Belt.
11. While I have found that the alterations to the access road alone would be not inappropriate development in the Green Belt, taken as a whole I conclude that the proposal would be inappropriate development which is by definition harmful to the Green Belt. In accordance with paragraph 144 of the Framework, I give this harm substantial weight.

Openness of the Green Belt

12. As the Framework emphasises, openness is one of the essential characteristics of Green Belts. Fox Wood is a gated street of detached dwellings arranged around an undeveloped central island. There are other accesses and roads as well as some buildings along this side of Burwood Road near to the site. However, there is generous spacing around buildings and these are dispersed between undeveloped areas, often comprising parcels of relatively dense mature trees. This gives the area a notable sense of openness.
13. The appeal site is clearly visible from Burwood Road, and the proposed entry call system and signs would be significantly larger than those that they would replace with a resulting greater impact on the openness of the Green Belt. It is also proposed to relocate the call entry system to be set more centrally within the access road. Combined with the increase in its scale, this would increase the prominence of the replacement structure in comparison to the existing call entry system post which is at the side of the road and close to adjacent mature landscaping which serves to soften the current visual impact.
14. The increased scale of the signs and entry call system and the heightened prominence of the entry call system would therefore result in some harm to the Green Belt through a loss of openness. The degree of harm would be limited by the relatively small scale of the structures, but nevertheless attracts substantial weight.

Other Considerations

15. The existing signs are relatively small and I accept that this may limit their visibility to traffic on Burwood Road, resulting in vehicles missing the access or braking late to turn into Fox Wood. In this context, I note that the local highway authority have no objection to the development and that interested parties have referred to an incident where the turning was missed by emergency services, although I have not been provided with any detailed evidence of a pattern of incidents nearby which might suggest a pressing highway safety concern. The proposed larger entrance signs would be more visible and I give some weight to the benefit this would have for access, although I also note that the street name comprises a small part of each structure and I have no information before me to demonstrate that there is a requirement for structures of the scale proposed.
16. I also accept that the existing call entry system is poorly located, requiring vehicles approaching the entrance gates from Burwood Road to cross over to the right-hand side of the access road to operate it. I saw that this may cause

- inconvenience to users and residents where vehicles waiting for entry would be in the path of vehicles exiting the gates. This would be addressed by the proposed relocation and I give moderate weight to this improvement, although I have limited information to show that the existing arrangement results in protracted inconvenience or particular conflict between vehicles, cyclists or pedestrians, or to indicate that a structure of the scale proposed is necessary.
17. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Whiteley Village Conservation Area which the site is part of in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Given the nature and impacts of the proposed development, I see no reason to disagree with the Council's conclusion that there would be no harm to this heritage asset or to the nearby listed building at North Lodge and I note that the development would use materials in keeping with the adjoining area. However, while issues of character are not in dispute, I am not persuaded that the proposal would offer any significant enhancement to the character or appearance of the area. Accordingly, these are neutral factors which do not weigh in favour of the proposal.
 18. The appellant has also referred to potential fallback positions in the form of development that might be implemented as 'permitted development' under the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the Order) without seeking planning permission. In this regard, there is no dispute between the main parties that the erection of a wall up to 1m high in the location of the proposed entrance signs would be permitted development.
 19. The entrance sign structures proposed by the appeal would have piers 1.125m high and so would slightly exceed the 1m height allowed adjacent to a highway under permitted development, but the proposed wall between the piers would be 0.9m, below the maximum height allowance. I note that there would be no restriction on the width of a wall built under permitted development. There is dispute between the main parties over whether a wall of greater width than is proposed would be implemented given the increased cost, but it seems to me that in the absence of the appeal proposal there is a realistic prospect that the appellants would instead erect a wall of at least equal width to that proposed.
 20. Any effect on the Green Belt of the proposed additional height of the piers above the maximum height allowed under permitted development would be minimal. This would further be balanced by the height of the proposed intervening walls below the maximum height that could reasonably be implemented by the appellant, noting also that the walls make up a significantly greater proportion of the width of each sign. I accept that the proposal would not be permitted development by reason of its height and the scale of the signage. However, in my view, the overall impact on the openness of the Green Belt would therefore be commensurate, and any difference in the scale of the signage panels set within the walls would make little tangible difference to this impact. For these reasons, I afford this fallback position significant weight.
 21. It has been put to me that the call entry system would also be permitted development under Schedule 2, Part 2, Class A of the Order which allows for a structure of up to 2m in height where it is not adjacent to a highway although

this is disputed by the Council. It is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 whether or not such a development would be lawful. However, to be permitted, development under Class A must be for a 'gate, fence, wall or other means of enclosure'. There is no definition of the term 'means of enclosure' within either the Order or the Town and Country Planning Act 1990 (as amended) and I have therefore considered the term according to its plain and ordinary meaning.

22. The proposed call entry system would not be similar to a gate fence or wall which are the specific elements listed within Class A. While I accept that it would relate to the operation of the gates to Fox Wood, on the basis of the information before me and as a matter of fact and degree, I am not satisfied that it would in itself constitute a means of enclosure. It is not therefore clear that this would represent a fallback to the proposed development so as to weigh in favour of the proposal.
23. Drawing matters together, the proposed replacement signs and call entry system would harm the Green Belt by virtue of their inappropriateness, and there would be some limited harm as a consequence of the greater impact of the development on the openness of the Green Belt. I give this harm substantial weight. However, when compared with the fallback position, the harm arising from the proposed replacement signs would not in my view be materially greater. The proposed replacement call entry system would enhance access to Fox Wood and would reduce the potential for conflict between vehicles, pedestrians and cyclists to the benefit of highway safety. I find that the circumstances of the case are such that these other considerations would clearly outweigh the harm that I have identified and amount to the very special circumstances necessary to justify the development in the Green Belt. I therefore find no conflict with the Framework. I also find no conflict with Policy DM18 of the DMP which advises, amongst other things, that support will be given to proposals that do not have a materially greater impact on the openness of the Green Belt and which are well designed to respond to the context of the site.

Conditions

24. I have considered the Council's suggested conditions. Where necessary, I have altered these to ensure compliance with the relevant tests outlined at paragraph 55 of the Framework and within the accompanying guidance. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. Conditions regarding the materials to be used and restricting the provision of additional lighting are necessary to ensure a satisfactory appearance and to avoid light pollution.

Conclusion

25. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR