
Appeal Decision

Site visit made on 25 February 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2020

Appeal Ref: APP/X4725/W/19/3242250

Go Outdoors, Hostingley Lane, Middlestown, Wakefield WF4 4PZ

- 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 Go Outdoors Ltd against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 19/01354/FUL, dated 12 June 2019, was refused by notice dated 7 August 2019.
 - The development is replacement palisade security fencing.
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Decision

1. The appeal is allowed. Planning permission is granted for replacement palisade security fencing at Go Outdoors, Hostingley Lane, Middlestown, Wakefield WF4 4PZ in accordance with the terms of the application, Ref 19/01354/FUL, dated 12 June 2019 and the plans numbered 1476 02 rev P2, 1476 03 rev P1, 1476 04 rev P2 & Site Location Plan, subject to the following condition:
 - 1) The palisade security fencing hereby permitted shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 2 months of the date of this decision a scheme for providing the palisade security fencing with a dark green or dark brown finish shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 10 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits

specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matter

2. The parties suggest that part of the appeal proposal could constitute permitted development. However, I am required to consider the scheme as a whole and this 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. It is open to the appellant to apply to have that matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.

Main Issues

3. The main issues are:
 - i. whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (2019) (the Framework) and any relevant development plan policies;
 - ii. the effect of the proposal on the openness of the Green Belt;
 - iii. the effect of the proposal on the character and appearance of the area; and
 - iv. if the proposal is inappropriate development, 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

4. At the time of my site visit, the palisade fencing had been installed. The proposal also includes the provision of anti-vandal spin guards on top of the fencing which had not yet been installed. The fencing relates to the existing developed Go Outdoors site which sits within the Green Belt, in a dip within the landscape to the south west of Wakefield.

Whether inappropriate development

5. The Framework at paragraph 145 establishes that the construction of new buildings within the Green Belt should be regarded as inappropriate unless they are a type of building identified under a list of exceptions. Given that the term 'building' can include any structure or erection, I am satisfied that in relation to this appeal, the proposal can be considered a building under the terms of this part of the Framework. The fence is not a type of building which falls under this list of exceptions. The development is therefore inappropriate development within the Green Belt.
6. Insofar as is relevant to this appeal, Policy D23 of the Wakefield District Local Development Framework Development Policies (2009) (LDFDP) seeks to resist inappropriate development within the Green Belt and in this respect, has a degree of consistency with the Framework. However, the Policy does suggest that free standing buildings within an existing developed site may be appropriate where their scale, materials and general design are in keeping with the character of the buildings and their surroundings and where they do not

lead to major increase in the developed proportion of the site. In relation to this appeal this policy is not fully in accordance with the Framework and I have afforded it more limited weight.

Openness of the Green Belt

7. A fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The assessment of openness requires a consideration of both spatial and visual aspects.
8. The existing boundary treatment between the car park and the tent display area is formed of a stone wall topped with a timber fence which is a similar height to the palisade security fencing which forms part of this proposal. However, the anti-vandal spin guards would increase the height of the fence by 0.5m to approximately 2.5m. At this height the boundary treatment would form a more noticeable feature. While the spin guards would not be especially bulky in form, they would partially limit views between the car park and tent display area as well as views out towards the surrounding countryside.
9. Consequently, there would be a minor but harmful loss of openness of the Green Belt. While the loss would be very small in the context of the Green Belt as a whole, the Framework is clear that substantial weight should be given to any harm to the Green Belt. Insofar as is relevant to this appeal, Policy D23 of the LDFDP does not make reference to openness and while I do not identify conflict with this policy I have afforded it more limited weight.

Character and appearance of the area

10. The proposal relates to an existing developed site which includes a retail store of significant size and an expansive car park containing a large outbuilding. The site has a highly commercial nature which gives it a separate character to the surrounding rural land which is more open and has completely different characteristics. Whilst I appreciate that there is residential property at the site, from which the proposals would be partially visible, given the commercial nature of the site and the somewhat utilitarian nature of some of the existing structures, I do not consider that the scale, siting, design, height or materials of the fence would be out of character. However, the current metallic finish is overly stark in appearance. The provision of a dark green or brown colour scheme would significantly improve the appearance of the development and condition 1 is therefore necessary.
11. Consequently, I conclude on this issue that the proposal would not conflict with Policies D9 and D23 of the LDFDP or Policy CS 10 of the Wakefield District Local Development Framework Core Strategy (2009) (LDFCS) which amongst other things require that new development proposals should be appropriate to the character of an area and protect the living conditions of neighbouring residents. The proposal would not conflict with the aims of the Framework where it relates to these matters.

Other Considerations

12. The evidence indicates that the site has been subjected to a significant amount of criminal activity in recent times and many incidents appear to relate to the theft of tents from the tent field, in relation to which the proposal seeks to provide increased security. Although some concern has been raised as to the

security benefits of the type of fencing proposed, it would be robust and is bolstered by the presence of the existing stone wall and fence. I have no reason to consider that the proposal does not have merit in relation to improving security at the site. Although only a snapshot in time, I observed on my site visit on a weekday morning that the store was well used. Its presence is inevitably of substantial benefit to the local economy as well as offering a valuable source of local employment. It is not unfeasible that continued security problems at the site could threaten the business at this location. I attach significant weight to these considerations.

Green Belt Balance

13. I have found that the development is inappropriate development within the Green Belt and would result in minor but harmful loss of openness of the Green Belt. It therefore should not be approved except in very special circumstances. Whilst I must attach substantial weight to the harm to the Green Belt, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Condition

14. The purpose of condition 1 is to require the appellant to comply with a strict timetable for dealing with the provision of a dark brown or dark green colour scheme to the fence which needs to be addressed in order to make the development acceptable.
15. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority ("LPA") or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.

Conclusion

16. For the reasons set out above, the appeal should be allowed.

T J Burnham

INSPECTOR