



Appeal Decision

Site visit made on 12 March 2020

by M Seaton DipTP MRTPI

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

Decision date: 12 June 2020

Appeal Ref: APP/G2245/W/19/3242316

Heathers, Rock Hill, Orpington, Kent, BR6 7PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr J Tibbs against Sevenoaks District Council.
 - The application Ref 19/02661/FUL, is dated 17 September 2019.
 - The development proposed is alterations to the existing front wall to lower the height of the wall, formation of landscaped bank behind, retention of wall as altered and retention of raised driveway.
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Decision

1. The appeal is allowed and planning permission is granted for alterations to the existing front wall to lower the height of the wall, formation of landscaped bank behind, retention of wall as altered and retention of raised driveway at Heathers, Rock Hill, Orpington, Kent, BR6 7PP, in accordance with the terms of the application Ref 19/02661/FUL dated 17 September 2019, and subject to the conditions as set out in the Annex.

Main Issue

2. The Council resolved in its Statement of Case received on 12 February 2020 that had it been in a position to determine the application, it would have granted planning permission subject to the imposition of certain conditions. Nevertheless, I must formally consider the planning merits of the proposal, and given the location of the appeal site within the Metropolitan Green Belt, I regard the main issue as being whether the proposed development would amount to inappropriate development for the purposes of the National Planning Policy Framework (the Framework).

Reasons

3. The appeal site is located on the southern side of Rock Hill which is a steep and narrow lane and is set within the Kent Downs Area of Outstanding Natural Beauty (AONB). The appeal site rises steeply from the north to the south with a detached dwelling set back from the road at a higher level behind gardens and an existing area of hardstanding facilitating parking and turning for vehicles.
4. The appeal scheme proposes alterations and the partial demolition of an existing wall located on the boundary of the site, which had been previously erected without the benefit of planning permission and is indicated to have been the subject of enforcement action. The resultant development would reduce the height of the wall to 1 metre and would introduce further

landscaping behind the wall up to the raised area of driveway, which would also be retained.

5. Paragraphs 143-147 of the Framework address proposals affecting the Green Belt and state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and "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. Subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
6. Paragraph 146 highlights that *certain other forms of development 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*. This includes engineering operations at paragraph 146(b), and it is agreed by the parties that the appeal proposals would fall to be considered against this exception, a conclusion with which I would also agree.
7. The proposed reduction in the wall height to approximately 1 metre would result in a development which would be partially below the height of the retained hardstanding area, with the visual impact of the structure at least in part benefitting from the raised soft landscaped bank to act as a visual backdrop. It is indicated that the proposal would be more reflective of the original boundary wall at the site which comprised earth banks with vegetation behind low slate and timber post log walls. Being mindful of its significantly more modest and reduced scale and its setting, I must agree with the parties that the proposal would preserve the openness of the area and would not in this respect conflict with the purposes of including land within the Green Belt.
8. In my determination of the appeal and assessment of the impact of the proposed works, I have given careful consideration to the conclusions of an Inspector on a previously dismissed appeal (*Ref: APP/G2245/D/18/3195429*) at the site for a driveway and front boundary treatment, dated June 2018. However, it is evident from the description of development attached to the 2018 decision that the current proposals have evolved significantly and differ markedly in their scope and impact from the previous scheme. I am satisfied in this regard that the concerns identified by the Inspector in 2018 would be addressed by the current appeal proposal.
9. I also note that the scale of the wall would be broadly in line with permitted development rights for such development, but this is not what has been applied for in this instance, and I do not attach any significant weight to this matter.
10. For the above reasons, and in the context of an assessment against paragraph 146(b) of the Framework, I am satisfied that the proposed development would be not inappropriate within the Green Belt. The Council has not referred me to any policies within the development plan of relevance to engineering operations within the Green Belt, and therefore I have relied upon the Framework.

Other Matters

11. In highlighting the location of the appeal site within the AONB, the Council has cited the responsibility to conserve and enhance the distinctive character and natural beauty of the AONB. In this respect, I have been referred to Policy EN5

of the Sevenoaks Allocations and Development Management Plan, February 2015 (the Local Plan) and have also had regard to paragraph 172 of the Framework.

12. I would agree with the conclusion that the scale and extent of the wall would appear as a comparatively low-key front boundary feature. Furthermore, based on my observations of other boundary treatments in the immediate vicinity it is clear that the proposal would not amount to a departure from the existing character of the area or be harmful to the AONB. In considering the use of materials, I observed there to be a relatively varied palette of existing materials including stone, timber, red brick and render finishes utilised on front boundary treatments along Rock Hill. However, I would agree with the Council's conclusion that for the proposal to represent an enhancement within the AONB, the use of an alternative to a solid colour of red brick should be sought. I am satisfied that this can be satisfactorily addressed through the imposition of a suitably worded condition as suggested by the Council and accepted by the appellant.
13. I have also noted the Council's conclusions related to the absence of an adverse impact on highway safety or the living conditions of neighbouring occupiers from the proposed development, and I see no reason based on the evidence before me to disagree with these conclusions.

Conditions

14. The Council has suggested the imposition of several conditions. In addition to a condition ensuring the development is in accordance with the approved plans, I consider that it would be appropriate to impose a suitable timescale within which the revisions to the unauthorised works are undertaken to ensure the protection of the Green Belt and AONB. Whilst the Council has suggested a period of 3 months from the date of this permission within which the works might be undertaken, I regard a more reasonable timescale to be 6 months given the scope of agreement on other matters which would be required in the current circumstances, in addition to the time taken to complete the actual physical works themselves. I have therefore amended the condition accordingly.
15. With regards the agreement of appropriate revised materials and a scheme of landscaping, I am satisfied that both conditions would be reasonable and necessary in the interests of ensuring that the appearance of the development accords with the existing character of the area and safeguards its visual appearance.

Conclusion

16. For the reasons as set out, and subject to the conditions listed, the appeal is allowed.

Martin Seaton

INSPECTOR

Annex

Conditions

1. Within 6 months of the date of this decision the wall shall be reduced in height to that shown on the approved plan, drawing number JT/17/99/02.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan and JT/17/99/02.
3. Notwithstanding the details of the approved plan, no development shall take place until full details of the materials to be used in the external finish of the wall hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with these approved details.
4. No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. This shall include details of any existing trees or shrubs to be retained, measures for their protection in the course of development and a programme of implementation of those measures. All approved planting shall be carried out in the first planting season following the first use of the crematorium. Any trees or plants which die, are removed or become seriously damaged or diseased within 5 years from the completion of the development shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.