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## Appeal Decision

Site visit made on 7 September 2020

**by I Radcliffe BSc(Hons) MRTPI MCIEH DMS**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> September 2020**

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**Appeal Ref: APP/P0240/D/20/3253282**

**Waterways, Watling Street, Hockliffe, Bedfordshire LU7 9LQ**

- 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 D Holden against the decision of Central Bedfordshire Council.
  - The application Ref CB/19/04192/FULL, dated 12 December 2019, was refused by notice dated 4 May 2020.
  - The development proposed is a 2 metre high close boarded fence.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. A close boarded fence of the height proposed has already been erected on the grass verge approximately 2.5 metres back from the edge of the carriageway. The appellant though states that this fence is set beyond the front boundary of the property and that the application seeks permission for the fence to be erected further back along the actual boundary as shown on the submitted plans. I have therefore dealt with the appeal on this basis.

### Main Issues

3. The Council's decision notice only refers to the adverse effect of the proposal on the character and appearance of the area. However, it is clear from the delegated officer report that the appeal site is located within the South Bedfordshire Green Belt and that the report considers that it would constitute inappropriate development. The appellant's appeal statement recognises that the Green Belt is a main issue. On this basis the main issues in this appeal therefore are:
  - whether the proposal is inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework ('the Framework');
  - the effect of the proposal on the openness of the Green Belt and the character and appearance of the area; and,
  - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

## Reasons

### *Whether inappropriate development*

4. Waterways is located within the Green Belt in an isolated location. No policies of the development plan that relate to the Green Belt have been cited by the Council in its delegated report. As a statement of national policy, the Framework though is an important material consideration.
5. A fence is present along the front boundary of the site and is too far away from the house on the site to be considered part of that building. Buildings are defined in section 336 of the Town and Country Planning Act and '*includes any structure or erection, and any part of a building so defined, but does not include plant or machinery comprised in a building*'. A fence therefore constitutes a building. Paragraph 145 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt.
6. One of the exceptions to this policy of restraint is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The existing front boundary fence is made of pointed metal poles, approximately a metre or so in height, held in place by a horizontal metal bar. Owing to the gaps between the poles being far wider than the thickness of the poles most of the fence is open space and the quantum of development represented by it is limited. As the proposed close boarded fence would be solid and significantly taller it would be materially larger than the existing fence.
7. For the reasons given above, whether the proposed fence would be in addition to the existing fence or replace it, it would therefore constitute inappropriate development, which by definition is harmful to the Green Belt as described in paragraph 143 of the Framework.

### *Openness*

8. Paragraph 133 of the Framework advises that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. It also advises that the essential characteristic of Green Belts is their openness and their permanence.
9. At present the front boundary of the site, which is approximately 20 metres in width, is marked by a fence of iron railings a metre or so in height. As I have noted above, with the gaps that exist between the metal poles most of this fence consists of open space. In comparison, a 2 metre tall solid fence along the front boundary would have a notable physical presence.
10. Set back from the highway along the front boundary of the site the base of the fence would be significantly below the height of the road. Whilst this would mean that the fence would not be particularly visually prominent from Watling Street, especially from fast moving traffic, it would still be visible in views from within the site and to those who visit or deliver there. Taking all these matters into account, I find that the proposed fence would cause a moderate amount of harm to openness.

### *Character and appearance*

11. Waterways is a residential property that stands in an isolated location next to a water treatment works within an agricultural landscape of rolling arable fields and hedgerows next to the busy A5 road, Watling Street.
12. The house itself is set well back from the road and is screened from view by the trees along its front boundary and front garden. When close boarded fencing is very occasionally seen in association with the few properties within the open countryside along the A5 they consist entirely of wood. The proposed fence though would be constructed of concrete posts and concrete gravel boards with dark stained close boarded fence panels which is a fencing type commonly associated with residential areas of settlements. As a result, the fence has an urbanising effect on the site and is unsympathetic to its rural surroundings.
13. The significant adverse effect that would be caused by the fence would not be particularly prominent from the road. However, this does not diminish the harm that would occur given that it would be visible from within the site and to those who visit or deliver there.
14. For the reasons given above, I therefore conclude that it would cause moderate harm to the character and appearance of the area, contrary to policies DM3 and CS14 of the Core Strategy and Development Management Policies for Central Bedfordshire (North) and the supplementary planning document Central Bedfordshire Design Guide (SPD). These policies and the SPD require the protection of the character and appearance of a locality through high quality design that respects local design features.

### **Other considerations**

15. I have found that the proposal would be inappropriate development in the Green Belt and thus should not be approved except in very special circumstances. It is therefore necessary to consider the grounds put forward by the appellant, to determine whether there are any material considerations which would amount to very special circumstances that would outweigh the harm by reason of inappropriateness, and the harm that I have identified to openness and the character and appearance of the area.

### *Security*

16. The fence would prevent people entering the site without permission. However, given that, other than at the site access, the front boundary to the site is secured by a steep embankment with a spiked metal rail fence the site is already secure. As a result, I attach limited weight to the security benefits of the fence in favour of the development.

### *Road noise and litter*

17. As the fence would be little taller than the level of the highway it would not act as an effective barrier to road noise within the garden or house. Whilst road use can generate litter, in the vicinity of the appeal site I saw little evidence of a litter problem. As a consequence, the benefits of the fence in terms of noise reduction and protection from litter are minimal and I attach little weight to these benefits of the scheme.

### *Fallback*

18. Under permitted development rights a solid one metre tall fence could be erected along the front boundary. It is quite possible that if the appeal is dismissed such a fence would be erected. However, as it would be half the height of the proposed fence the harm that it would cause to openness and the character and appearance of the area would be significantly less. As a result, I attach little weight to this fallback position in favour of the appeal.

### *Highway safety*

19. The majority of the proposed fence along the front boundary would be set behind the wide visibility splays that are necessary at the site access in order to allow vehicles to safely exit the site and join the road. As a result, the proposed fence would not define these splays and contribute to highway safety in the manner claimed. I therefore attach little weight to this benefit of the scheme.

### *Fairness and consistency in decision making*

20. Close boarded fences and a wall along the roadside boundary of other isolated properties along the A5 have been cited in support of the appeal. I have not been provided with any further information regarding the circumstances of these boundary treatments, which in each proposal are likely to be different. What is evident though from viewing the sites is that these properties are at the same level as the road and the majority are closer to the highway than the house at Waterways. As a result, unlike the appeal proposal, these fences and wall help reduce road noise and provide privacy. Moreover, as the fences are completely wooden, and the brick wall complements the property it serves, these boundary treatments, unlike the appeal proposal, are in keeping with the character and appearance of the area.
21. Consequently, I find that there is insufficient evidence to demonstrate that not granting permission for the fence would be unfair and inconsistent. I therefore attach minimal weight to this consideration in favour of the appeal.

### **Conclusion**

22. The proposal represents inappropriate development, which by definition, would be harmful to the Green Belt as described in paragraph 143 of the Framework. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt. I have also found that there would be moderate harm to the openness of the Green Belt and the character and appearance of the area. Clearly, therefore the degree of harm caused would be significant.
23. I find that the other considerations put forward by the appellant fall well short of clearly outweighing the harm identified and thus the very special circumstances necessary to justify the development do not exist. As such, the proposal would be contrary to Green Belt policy contained within the Framework. The appeal should therefore be dismissed.

*Ian Radcliffe*

Inspector