



Appeal Decision

Site visit made on 5 October 2020

by Conor Rafferty LLB (Hons), AIEMA, Solicitor

Decision by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2020

Appeal Ref: APP/T3725/D/20/3252505

Broadford House, Grovehurst Park, Kenilworth, Warwickshire CV8 2XR

- 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 Gareth Philips against the decision of Warwick District Council.
 - The application Ref W/20/0214, dated 31 January 2020, was refused by notice dated 2 April 2020.
 - The development proposed is described as 'proposed external gates, entrance walls, piers and side fence'
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

1. Two sets of plans have been provided, one of which shows a revised scheme after the date of the Council's decision. I have made this recommendation on the basis of those plans which it is stated were under consideration when the application was determined.

Main Issue

2. The main issues are:
 - 1) whether the proposal would constitute inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework);
 - 2) the effect of the development on the openness of the Green Belt and the purposes of including land within it;
 - 3) the impact of the development on the safe and efficient operation of the highway network in the vicinity of the appeal site; and
 - 4) if found to be inappropriate development, whether the 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 the proposal.

Reasons for the Recommendation

Whether the proposal constitutes inappropriate development

3. The appeal site is located in Grovehurst Park in Kenilworth and is situated within the Green Belt. The immediate surrounding area is residential in nature but retains a rural feel. The estate has an open plan feel, largely due to the fact that boundaries between the dwellings present and the highway are predominantly formed either from low railings with vegetation, or by brick pillars connected with low level walls and a trellis form of fencing. The proposal relates to the replacement of low railings towards the front boundary of the appeal site with external gates, entrance walls, piers and a side fence.
4. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It makes it clear that the construction of new buildings is inappropriate in the Green Belt with a limited number of exceptions detailed at paragraph 145. The term "building" is defined in section 336 of the 1990 Act to mean any structure or erection and this means that a structure such as a wall should be assessed under paragraph 145 of the Framework. As the development is not within the list of exceptions at paragraph 145 it represents inappropriate development, which by definition is harmful to the Green Belt.

Impact on openness

5. The Framework states that *"the 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."* It has been established that openness has both a spatial and visual aspect.
6. From a spatial perspective the impact is limited, with the proposal representing a modest volume of development such that the increased footprint of built form in the area would not be significant. However, the impact from a visual perspective is greater. In keeping with the overall nature of Grovehurst Park, the entrance to the appeal site has an open feel. Sweeping corners largely clear of vegetation lead to a wide driveway, affording clear views of the property and front gardens from the road, and of the surrounding development when exiting the site. The railings present along the front are extremely low so as not to appear visually intrusive.
7. As a result of its height and solid brick and gates the proposal would be a visually prominent form of development. It is materially larger than the railings present, preventing views and removing the open feel present in this location. It would be situated at a prominent curve in the road that allows for it to be experienced from and alongside other dwellings. In this regard, the proposal would be at odds with the predominant style of wall within the estate that allows for views through the trellis design. While the appellant has shown a willingness to redesign the gates if required, it remains that the introduction of an additional span of solid brick wall would appear visually dominant by comparison to the surrounding walls and serve to reduce the openness of the area.
8. Accordingly, while the spatial impact would be limited, due to its visual impact the proposal would fail to preserve the openness of the Green Belt.

Highway safety

9. The proposal would not be constructed along the boundary line between the appeal site and Grovehurst Park but would be slightly set back from the highway. The appellant has stated that it would be set back at a distance of 7.1 metres, while the Council has referred to a distance of 4.1 metres and stated that this falls below the Highway Authority requirement of 5 metres.
10. However, the precise set back distance of the proposal is not shown on any plans that were before the Council at the time it made its decision. Similarly, I have not been directed to evidence by the Council to demonstrate that the Highway Authority requirement of a 5 metre setback is established in policy.
11. Nonetheless the proposal would be sufficiently set back from the highway to ensure that it does not overhang onto Grovehurst Park and cause any physical obstruction in this regard. While an obstruction may occur due to vehicles entering and exiting the site having to wait for the gates to open, the duration of this would be brief and there would remain sufficient space for such vehicles to partially turn into the site so as to not block the entirety of the highway.
12. As such, the proposal would not significantly compromise the safety and suitability of access routes for pedestrians, cyclists or users of motor vehicles. It would therefore not have an unacceptable impact on the safe and efficient operation of the highway in the vicinity of the appeal site and, accordingly, would comply with Policy TR1 of the Warwick District Council Local Plan 2011 – 2029, September 2017 in this regard.

Other considerations

13. The Framework states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
14. The appellant has stated that the proposal is in keeping with the wider estate through the use of red brick in terms of shape, size, colour and texture. However, the absence of harm in this respect does not amount to a benefit over and above what would normally be expected, and this matter attracts limited weight.
15. The appellant has further stated that the proposal would allow the use of the front garden space by their children, adding an element of safety, and has highlighted that the property has no real rear garden. However, I observed the adequately sized and contained rear garden on site and in any event I am not convinced that no alternative form of development exists that could increase the safety of the front garden space while also safeguarding the openness of the Green Belt.

Very Special Circumstances

16. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would therefore be contrary to Policy DS18 of the Warwick District Council Local Plan 2011 – 2029, September 2017 in this regard.

Overall Conclusion and Recommendation

17. I have concluded that the proposal would not have a significant effect on the safe and efficient operation of the highway network in the vicinity of the appeal site.

However, it would represent inappropriate development in the Green Belt. Having had regard to all matters raised, I therefore recommend that the appeal should be dismissed.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis I agree, and the appeal is dismissed.

K Taylor

INSPECTOR