



Appeal Decision

Site visit made on 23 November 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2020

Appeal Ref: APP/K3605/W/20/3255074

Burhill Golf Club, Burhill, Hersham, Walton-On-Thames KT12 4BX

- 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 Percy on behalf of Burhill Developments Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2020/0096, dated 13 January 2020, was refused by notice dated 26 March 2020.
 - The development proposed is retrospective planning for the erection of replacement fencing.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether or not the proposal is inappropriate development in the Green Belt;
 - The effect upon the character and appearance of the area; and
 - If the proposal is inappropriate development, whether or not any 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 it.

Reasons

Whether inappropriate development

3. The National Planning Policy Framework (February 2019) (the Framework) sets out that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless one of several stated exceptions apply. The term 'building' is defined under Section 336 of the Town and Country Planning Act 1990 to include any structure or erection. On this basis I am content that the three separate elements of fencing under consideration here (the fencing) should be regarded as buildings for the purposes of assessing the scheme against the Framework's Green Belt provisions.
4. The exceptions to new buildings being regarded as inappropriate include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The fencing is materially larger/higher than the treatments that were formerly in place, as evidenced

through photographs that appear on the main plan submitted. Thus, this Framework exception does not apply.

5. A further stated exception is the provision of appropriate facilities in connection with the existing use of land for outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The fencing part-encloses areas of land that are used for the stabling and keeping of horses. As the fencing provides a security function, I am content that it can be considered to represent an appropriate facility for outdoor recreation (under the terms of the Framework). It thus falls for me to consider whether the proposal preserves openness and/or conflicts with the purposes of including land within the Green Belt.
6. The fencing is of close-boarded and continuous form and, in each of its three locations, is set in proximity to Turners Lane (the Lane). It is thus readily visible from a variety of different vantage points along the Lane and, being of solid specification, has a stark visual impact in each case. Although it has been suggested that soft landscaping could soften the fencing's appearance, planting cannot be relied upon to provide an effective and constant barrier to views. This is not least because planting takes time to fully establish and is reliant on regular maintenance to retain a consistent form.
7. It has also been suggested that fences are not permanent and could be removed with little impact. Whilst I accept that the fencing could likely be taken down relatively straightforwardly in each of the three locations in question, it is of permanent and robust appearance and there is no clear reason to consider that it would be likely to be removed in the near future.
8. For the above reasons, I find that the fencing results in a loss of Green Belt openness when compared to the effect of the replaced boundary features that were formerly in place. Furthermore, by virtue of the fencing's visual effect, the scheme conflicts with the Green Belt's purpose of assisting to safeguard the countryside from encroachment.
9. The proposal, by virtue of failing to meet any of the Framework's stated exceptions, is inappropriate development in the Green Belt. The proposal conflicts with Policy DM18 of the Elmbridge Local Plan Development Management Plan (April 2015) (the DMP) and with the Framework in so far as these policies affirm that support will be given to proposals for replacement buildings that do not have a materially greater impact on the openness of the Green Belt and do not materially increase the overall height of the building, and that inappropriate development is, by definition, harmful to the Green Belt.

Character and appearance

10. The Lane is a well vegetated route that is, for much of its extent, bound by various trees and hedgerows as well as by open grassed fields and paddocks. There is built development in place at points along and in proximity to the Lane. However, when considered as a whole, the Lane has a green and semi-rural character and appearance. Indeed, solid boundary treatments address only parts of the Lane and tend to be concentrated to the north of the sites in question.
11. As discussed above, each of the elements of fencing under consideration is sited alongside the Lane and has a prominent impact when viewed and

experienced from different vantage points along it. In contrast, the various stable buildings and structures situated beyond occupy a more discreet setback position. The fencing, being of close boarded design, provides hard edges to the Lane and is at odds with its green and semi-rural character. Furthermore, for reasons already touched upon above, any existing or new planting could not be relied upon to provide an effective or permanent barrier to views of the fencing.

12. For the above reasons, the scheme causes harm to the character and appearance of the area. The proposal conflicts with Policy CS5 of the Elmbridge Core Strategy (July 2011), Policies DM2 and DM19 of the DMP and the Design and Character Supplementary Planning Document (April 2012) in so far as these policies and guidance require that proposals should preserve or enhance the character of the area and that proposals for new buildings, extensions to existing buildings and means of enclosure should achieve a high standard of design and use sensitive materials that reflect local character, particularly in the Green Belt and other open areas.
13. The proposal relates solely to the retrospective installation of fencing that does not necessitate the loss of any areas of existing open space. I also understand that the fencing does not affect any designated Strategic View. Policy DM20 (Open Space and views) of the DMP is thus of limited relevance.

Other considerations

14. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework also indicates that substantial weight should be given to any harm identified to the Green Belt.
15. The fencing provides security benefits through enclosing the highway frontages of three separate plots that contain potentially valuable (and combustible) equipment, machinery and materials associated to the stabling and keeping of horses. Indeed, the fencing and associated gating that is in place is approximately 1.8m high and of robust/solid specification, which provides a deterrent to potential instances of trespass. I also acknowledge that the sites are not overlooked by buildings in permanent occupation and that properties in rural locations can be vulnerable to crime due to their often-isolated positions.
16. Nevertheless, I have not been provided with any specific details of recent/past instances of crime at the sites under consideration (or, indeed, at any other location along the Lane) to assist in demonstrating that the risk of crime in the local area is particularly high.
17. My visit occurred during daylight hours and thus not at a time when the sites in question could be at their most vulnerable to crime. Nevertheless, I experienced the Lane to accommodate regular vehicular and pedestrian trips as well as recreational dog walking and horse riding. Whilst my single visit to the site cannot be relied upon to provide an entirely accurate account of day-to-day activities, I am content that the Lane does not constitute a particularly quiet or very remote route, and that some forms of natural surveillance are offered.
18. Furthermore, it has not been clearly demonstrated that other less visually prominent alternative measures to deter trespass/crime could not be

implemented to provide the same level (or a similar level) of deterrence to that offered by the fencing that has been installed.

19. For the reasons given above, the security benefits of the proposal attract moderate weight and would not outweigh the substantial harm identified to the Green Belt (including harm derived from loss of openness) in addition to the moderate degree of harm I have identified to the character and appearance of the area so as to amount to the very special circumstances necessary to justify the proposal. The scheme conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

20. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR