



Appeal Decision

Site visit made on 17 November 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2020

Appeal Ref: APP/P2365/C/20/3257072

Land at 110 Renacres Lane, Halsall, Lancashire L39 8SF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by James Birchall against an enforcement notice issued by West Lancashire Borough Council.
 - The enforcement notice, numbered E/2018/0097/UW, was issued on 17 June 2020.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of a wall, gates and gate piers.
 - The requirements of the notice are (1) Demolish the masonry wall, gate posts and timber gates; and (2) Remove the resultant materials from the site.
 - The periods for compliance with the requirements are (1) 2 months after the notice takes effect; and (2) 3 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 as amended (the Act).
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

The appeal on ground (c)

2. The wall, gates and piers are means of enclosure exceeding 1m in height but not exceeding 2m in height and it is not disputed that they constitute development as defined by section 55 of the Act.
3. Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (the Order) grants planning permission for the erection, construction, maintenance, improvement or alteration of any means of enclosure subject to certain exceptions and limitations. However, Article 3(4) of the Order states that it does not permit any development contrary to any condition imposed by any planning permission. The planning permission¹ for the conversion of 2 farm buildings to 3 dwellings, one of which is now 110 Renacres Lane, included a condition requiring that, among other things, means of enclosure may only be erected with the express written permission of the local planning authority.
4. The effect of this planning condition is that the wall, gates and piers do not benefit from the permitted development rights conferred by the Order. They

¹ 8/2002/0065, granted 5 December 2002.

are therefore development requiring express planning permission and the appeal on ground (c) must fail.

The appeal on ground (a)

5. The main issues in this appeal are:

- Whether the means of enclosure are inappropriate development in the Green Belt, having regard to the revised Framework² and any relevant development plan policies.
- The effect of the means of enclosure on the openness of the Green Belt.
- The effect of the means of enclosure on the setting of heritage assets and the character and appearance of the immediate area.
- If the means of enclosure are 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 required to justify the proposal.

Reasons

Whether the means of enclosure are inappropriate development

6. The definition of a building in section 336 of the Act includes “any structure or erection.” It has not been suggested that the wall, gates and piers do not constitute a building for the purposes of this assessment and, having regard to their size, permanence and degree of physical attachment, I am satisfied that they do. The revised Framework regards new buildings as inappropriate in the Green Belt and the exceptions listed in paragraphs 145 and 146 do not include domestic means of enclosure. Accordingly, the wall, gates and piers are inappropriate development in the Green Belt.

The openness of the Green Belt

7. The wall, gates and piers are within a courtyard surrounded by La Mancha and barns, stables and other outbuildings, some of which have been converted to residential use. This group of buildings screens the wall, gates and piers from external view, other than through the entrance to the courtyard, such that there is only limited effect on the visual and spatial openness of the Green Belt.

The setting of heritage assets and the effect on character and appearance

8. While the Council’s reasons for issuing the notice refer to the group character of buildings of heritage value, the only heritage asset identified in the evidence before me is La Mancha, listed grade II.
9. The significance of La Mancha as a heritage asset derives from its character as a country house with landscaped grounds providing a formal approach and ancillary and utilitarian buildings around a courtyard to the rear. While some of the courtyard buildings are now in separate ownership and have undergone changes in appearance and use, their original form and connection with La Mancha remain legible.

² The National Planning Policy Framework, updated 19 February 2019

10. The courtyard space between the buildings is an attractive feature that contributes positively to the sense of place associated with the historic relationship between La Mancha and the ancillary buildings. Having regard to the glossary in the revised Framework, the courtyard is part of the surroundings in which the listed building is experienced. It is therefore an important component of the significance of that heritage asset, which the past conversion of some buildings to residential use and the accompanying separation of curtilages has not altered substantially. However, the wall, gates and piers intrude into the otherwise open courtyard and thus do not relate well to adjacent buildings, diminishing the sense of place and causing less than substantial harm to the setting of La Mancha.
11. No public benefits that would outweigh this harm have been identified and great weight should be attached to the conservation of heritage assets. The development is therefore contrary to policies EN4 and GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document, which require development to preserve or enhance heritage assets, have regard to historic character, and complement or enhance attractive attributes; and Part 16 of the revised Framework.

Other considerations

12. The revised Framework states that inappropriate development is harmful to the Green Belt by definition and should not be approved unless very special circumstances exist.
13. More substantial boundary walls are found nearby, including immediately adjacent at No 108. However, I saw that the wall to that property screens a private garden area and is more peripheral to the courtyard. Whether or not it is authorised, the wall at La Mancha Lodge appears in the different context of the track leading to the site and where La Mancha is screened by substantial vegetation, so that this wall has very limited effect on the setting of the listed building.
14. The wall, gates and piers are well designed and constructed and the wall has attracted support from a neighbour. However, the harm identified above results from their intrusion into the courtyard and not their detailed appearance.

Conclusion on ground (a)

15. The wall, gates and piers are inappropriate development within the Green Belt. Although the harm they cause to its openness is limited, this is a matter to which substantial weight is given. They also cause less than substantial harm to the setting of the heritage asset of La Mancha, a matter to which great weight should be attached, and fail to complement or enhance the attractive courtyard setting. As cited above, there is conflict with the development plan and national planning policy.
16. On the other side of the scales, I attach very little, if any, weight to the support expressed for the wall, its design quality, or the existence of more substantial walls nearby. The considerations in support of the development do not, individually or cumulatively, clearly outweigh the substantial weight to be afforded to the limited Green Belt harm and the less than substantial harm to the setting of the heritage asset. There are no very special circumstances to justify the development.

17. Accordingly, the appeal on ground (a) should not succeed.

Conclusion

18. For the reasons given above, I conclude that the appeal should not succeed. I have upheld the enforcement notice and refused to grant planning permission on the application deemed to have been made under section 177(5) of the Act as amended.

Mark Harbottle

INSPECTOR