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## Appeal Decisions

Site visit made on 27 October 2020

**by S A Hanson BA (Hons) BTP MRTPI**

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

**Decision date: 15 December 2020**

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**Appeal A: APP/P0119/C/20/3255709**

**Appeal B: APP/P0119/C/20/3255716**

**Chelwood, Vattingtone Lane, Alveston, Bristol BS35 3JT**

- 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 Mr S and Mrs F Riddiford against an enforcement notice issued by South Gloucestershire Council.
  - The enforcement notice, numbered COM/18/0231/OD/1, was issued on 26 May 2020.
  - The breach of planning control as alleged in the notice is: The erection of walls, gates and fencing in excess of 1 metre in height without planning permission, in the approximate location marked blue on the attached plan.
  - The requirements of the notice are: Remove all sections of wall, fencing and gates; and their constituent materials from the land.
  - The period for compliance with the requirements is three months.
  - Appeal A is proceeding on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
  - Appeal B - Since the prescribed fees have not been paid, the appeal is proceeding on the grounds set out in section 174(2) (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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### Decisions

1. The appeals are 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 1990 Act as amended.

### Preliminary matters

2. Throughout the appeals, the appellants refer to the "hoarding" rather than "walls, gates and fencing in excess of 1 metre in height", which are the subject of the notice and upon which my decision shall be based.
3. The proposal to erect a 2.4 metre high hoarding, attached to the boundary walls, for a temporary period, is the subject of a separate appeal<sup>1</sup> against the Council's refusal to grant planning permission.

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<sup>1</sup> APP/P0119/W/20/3254700

### **Appeals A and B on ground (c)**

4. The ground of appeal is that the matters alleged do not constitute a breach of planning control. The onus of proof in ground (c) is upon the appellants, and the test of the evidence is on the balance of probability.
5. The appellants argue that the enclosure is permitted development (PD) by virtue of Part 4, Class A of the Town and Country Planning (General Permitted Development) Order 2015, which would allow for the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with, and for the duration of, operations carried out on the site or adjoining land. The essence of the appellants' claim being that the enclosure has been constructed for a temporary purpose for the security of the site whilst building work progresses.
6. The construction of the walls, gates and fencing to provide security for the site in connection with the construction of works to the house may comply with the essence of Part 4 Class A of the GPDO. However, I am not persuaded that they are required 'temporarily'. The size, construction and degree of permanency, goes above and beyond what is reasonably required for the structure to be classed as being required 'temporarily'.
7. As a matter of fact and degree and on the balance of probability, the boundary treatment is not a temporary structure and its use is not intended as such. The development does not therefore fall within the ambit of Class A PD rights. Express planning permission is required for the development and it has not been obtained. The appeal on ground (c) must fail.

### **Appeal A on ground (a) and the deemed planning application**

#### **Main Issues**

8. These are:
  - i. Whether the walls, gates and fencing constitute inappropriate development in the Green Belt having regard to the development plan and the National Planning Policy Framework (the Framework), and the purposes of including land within it;
  - ii. The effect of the development on the openness of the Green Belt;
  - iii. The effect of the development on the character and appearance of the area taking into account its location within the Green Belt; and
  - iv. If the walls, gates and fencing are inappropriate development, whether the harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

#### **Reasons**

9. The appeal site is located in the Bristol/Bath Green Belt outside of the settlement boundary of Alveston. The property is set back from Vattingstone Lane and is located on its north side. The property has a wide frontage where breezeblock walls, wooden fencing and gates have been erected along the boundary with the highway.

*Whether the walls, fencing and gates constitute inappropriate development in the Green Belt*

10. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
11. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to exceptions as set out in paragraph 145. The term "building" refers to any structure or erection, and therefore includes the walls, fencing and gates. However, these are not referred to in the exceptions within paragraph 145, and therefore I conclude that the proposal would be inappropriate development within the Green Belt and would be contrary to the Framework.

*Openness*

12. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect. The walls, fencing and gates present a solid man-made feature, which form a significant structure and enclose the property. The breezeblock wall is of considerable length and of a height, set upon the verge, that is imposing and with its solid form restricts views into and across the plot. The site is within the open countryside, and being opposite and adjacent to open fields, the spatial openness of the land within the Green Belt is reduced.
13. The development is in a prominent position where there are views towards the site from the surrounding land. Visual impact forms part of the concept of openness of the Green Belt, and the visual dimension of the Green Belt is an important part of the point of designating land as such. The development is set along the raised highway verge and is clearly visible to all road users. It is acknowledged that permitted development rights exist for a fence or wall to be erected up to one metre in height. However, what has been constructed exceeds that limit and has a significantly greater impact than what would be considered permitted development.
14. In these circumstances, I find that the visual intrusion of the development, due mainly to the height and expanse of breeze block, results in the erosion of openness, conflicting with paragraph 133 of the Framework which identifies openness as an essential characteristic of the Green Belt. I therefore consider that in both spatial and visual terms the development has a significant adverse impact on the openness of the Green Belt.

*Character and appearance*

15. The appeal site is located on the edge of the village, where it clearly demarcates the end of the built up area, being the final property along the Vattingstone Road, before the road heads out into open countryside. Coming from the village, the nearby boundaries with the roadside are verdant with landscaping and deep highway verges. At the appeal site, the depth of the highway verge narrows as the road curves. The property boundary to the front of the house is extensive in length and thus clearly visible from its approach in both directions. The substantial and solid nature of the development, particularly the height of the walls, jars with the more natural boundary

treatments within the surrounding environment, presenting a feature that is more appropriate in an urban or suburban area than in a countryside setting forming the boundary to a rural property.

16. I therefore conclude that the development has a harmful effect on the character and appearance of the surrounding area by virtue of its scale and imposing built form. The development conflicts with Policy CS1 of the South Gloucestershire Local Plan: Core Strategy 2006-2027 December 2013 (CS) and Policies PSP1 and PSP38 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan November 2017 (LP) which, among other things, seek to ensure that development makes a positive contribution to the distinctiveness of the locality and respects the hard and soft landscaping of the street and surrounding area.

### **Other considerations**

17. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt and that 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. I turn now to address other considerations that, potentially, might clearly outweigh harm arising from inappropriate development in the Green Belt, the erosion of openness, the conflict with the purposes of including land within it and the harm to the character and appearance of the area so as to provide the very special circumstances required to justify a grant of planning permission.
18. The appellants' case for the proposal rests on the need for site security alone which needs to be set against any harm to the Green Belt, and that special circumstances do not need to be considered in this case. Furthermore, the appellants provide that the development is required for a short period of time to cover the construction programme for the house refurbishment. However, there is no further evidence before me to demonstrate why such a solid structure is required for security purposes for a residential property.
19. Overall, I am not persuaded by these arguments. The height, length and design of the boundary treatment in this prominent location creates a structure that visually and spatially has a significant impact on the openness of the Green Belt and an adverse effect on the character and appearance of the area. Furthermore, the openness of this part of the Green Belt is not preserved which is contrary to Policies CS5 and CS34 of the CS which, in accordance with the Framework, consider that the Green Belt should be protected from inappropriate development.
20. Substantial weight should be given to any harm to the Green Belt and I do not consider that any security benefits the development provides clearly outweighs the harm that it causes. Consequently, very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.

### *Conclusion on ground (a)*

21. For the reasons given above, I conclude that the appeal on ground (a) should not succeed and I refuse to grant planning permission on the deemed application.

**Appeals A and B on ground (f) and (g)**

22. An appeal on ground (f) is a claim that the requirements of the notice are excessive and lesser steps would overcome the breach of planning control. The appeal on ground (g) is that the period for compliance with the notices falls short of what is reasonable.
23. The appellants have provided that in the event of a failure on ground (a), the lesser steps to overcome the breach of planning control would be to extend the period for compliance, as appealed under ground (g).
24. On ground (g) the appellants consider that a compliance period of three months is insufficient, and that the appropriate and proportionate remedy would be to extend the compliance period to 1 March 2021. Due to the time scale of the appeal, a 3 month compliance period would almost give the appellants the requested extension. Consequently, I consider that the stated compliance period of 3 months does not fall short of what is reasonable.
25. The appeals on grounds (f) and (g) fail.

*S A Hanson*

INSPECTOR