



Appeal Decision

Site visit made on 4 August 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2021

Appeal Ref: APP/C1950/D/21/3274437

21 The Ridgeway, Cuffley, Potters Bar EN6 4BB

- 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 Paul Wilson against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2021/0380/HOUSE, dated 5 February 2021, was refused by notice dated 7 April 2021.
 - The development proposed is new boundary wall consisting of brick wall and piers with railings and gate with piers.
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Decision

1. The appeal is allowed and planning permission is granted for new boundary wall consisting of brick wall and piers with railings and gate with piers at 21 The Ridgeway, Cuffley, Potters Bar EN6 4BB in accordance with the terms of the application Ref 6/2021/0380/HOUSE, dated 5 February 2021, and subject to the following conditions:
 - 1) Subject to the requirements of condition 2, as set out below, the development hereby permitted shall be carried out in accordance with the following plans: Location Plan – Drawing No:1950/P/201 Rev A; 'Proposed Elevation 1:50' and 'Proposed Site Plan 1:100' as shown on Drawing No:1950/P/202 and Street Scene – Drawing No:1950/P/203.
 - 2) a) Within 1 month of this Decision, specifications and samples of all facing materials to be used in the construction of the development hereby permitted shall be submitted to the local planning authority for agreement.

b) Within 6 months of the local planning authority's written agreement of all facing materials (as set out under part a) of this condition) the wall, piers, railings and gates shall be completed in accordance with the approved details.
 - 3) The landscaping scheme as shown on Drawing No:1950/P/202, Rev A shall be carried out in the first planting and seeding season following the completion of the development in accordance with condition 2 above.

Thereafter, any planting which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased must be replaced in the next planting season with others of similar size and species.

Preliminary Matters

2. Since the appeal was lodged, a revised version of the National Planning Policy Framework, 2021 ('the Framework, 2021') has been released. The main parties have been consulted on this and I have taken this into account where relevant to my Decision.

Main Issues

3. The main issues are:

- i) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework, 2021 and the development plan;
- ii) the effect of the development on the openness of the Green Belt;
- ii) the effect of the development on the character and appearance of the area; and,
- iv) if the development would be inappropriate, whether any 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 it.

Reasons

Inappropriate development

4. The appeal site is located within the Green Belt. Policy GBSP1 of the Welwyn Hatfield District Plan 2005 (WHDP) sets out the extent of the Green Belt but does not provide any additional detail for the determination of planning applications. The Framework, 2021 sets out the Government's policy in relation to Green Belts. Inappropriate development is, by definition, harmful and should not be approved other than in very special circumstances. Substantial weight is to be given to any harm to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
5. The main parties have referred me to two previous schemes in respect of boundary treatments for the host property, both of which were dismissed on appeal. In determining those appeals the Inspector concluded that walls, gates and piers should be regarded as "buildings" for the purposes of applying Green Belt policy. I have no reason to take a contrary view in relation to the proposed development.
6. Paragraph 149 of the Framework, 2021 sets out certain exceptions for new buildings in the Green Belt. The development is not listed under any of these and therefore constitutes inappropriate development in the Green Belt.

Effect on openness

7. Paragraph 137 of the Framework, 2021, identifies 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". Openness of the Green Belt has a spatial as well as a visual aspect.

8. The proposed scheme seeks to modify the existing boundary wall to create a lower wall interspersed with piers which would be infilled with railings. This structure would feature the same sliding iron access gate and supporting piers but with the removal of the screen behind these gates which at present give these a strong visual presence. The retained walling and pillars would be refaced with brickwork.
9. The proposal would comprise a physical boundary along the frontage of the appeal property and therefore would reduce spatial openness. Despite its overall lower height and design, the proposal would still result in some the visual impact on openness. Consequently, the proposal would result in harm to the openness of the Green Belt.

Character and appearance

10. The appeal site is located in a semi-rural area, with well-spaced development. The site is prominent due to the natural topography and alignment of the road. It is within an area identified as Northaw Common Parkland Landscape Character Area in the WHDP.
11. This part of The Ridgeway is wide and straight, with houses set well back behind with front gardens generally planted with trees, shrubs and hedges, giving the area a well-established and informal character. Some of the front gardens are open to the road, or have screening provided by vegetation, while others have some elements of walling and fencing.
12. However, there are other existing hard boundary treatments that have a greater visual presence within the streetscene. For example, the immediate neighbouring property at 19 The Ridgeway has a wide frontage, the front boundary of which is marked by a dark stained close boarded fence behind a narrow verge. There is also an example of a boundary treatment at 27 The Ridgeway, which is not too dissimilar to the proposed scheme. Therefore, these examples also inform the character and appearance of the area and lend support to the proposal.
13. The proposed scheme includes Pyracantha Hedging (Firethorn) about 2m high along the front of the wall and railings. This would enhance the boundary treatment, whilst also enabling it to assimilate with the streetscene.
14. I have also been referred to an approval (Ref: 6/2021/1087/COND) for a proposed boundary treatment at 44 The Ridgeway which is opposite the appeal site. Whilst each application is determined on its merits and I have noted the Council's reasons for supporting this development in the Green Belt, in terms of its appearance this is similar to the proposed scheme before me and therefore lends support for it.
15. For the above reasons, the design and scale of the proposed boundary treatment along with the landscaping would complement the character and appearance of the area. I, therefore, find no conflict with the design aims of Policies D1 and D2 of the WHDP.

Other considerations

16. The Framework, 2021 states that inappropriate development should not be approved except in very special circumstances. These circumstances will not exist unless the development's harm to the Green Belt by reason of

inappropriateness, and any other harm, is clearly outweighed by other considerations. In this regard the appellant has referred me to their fallback position.

17. The appellant's fallback is based on a scheme which could be realised by gaining approval for similar gates and piers which were previously accepted under planning permission ref 6/2015/2427/HOUSE at the appeal property and supplementing these with a 1m wall under the provisions of permitted development. On the information before me, I have no strong reasons to dispute this. Further, in my view, the approval of the proposed boundary treatment at 44 The Ridgeway also lends support to this fallback, in relation to its elements which would require planning permission.
18. For significant weight to be afforded to a fallback position, there needs not only to be a reasonable prospect of it being carried out in the event that this planning permission were to be refused, but it would also need to be more harmful than what would be allowed by the scheme for which permission is sought. Given that the appellant has persistently sought to secure a front boundary treatment, I am satisfied that there is a reasonable prospect of the fallback position being carried out in the event that this appeal was to be dismissed.
19. When what could be allowed from the appeal scheme is compared to the fallback, the former in the form of a wall would have a similar spatial impact on openness but a greater effect on visual openness of the Green Belt because of its likely solid form.
20. For the above reasons, the fallback position is, therefore, a material consideration of significant weight in this case, and in the overall Green Belt balance.

Other Matters

21. I am aware that other schemes for boundary treatments at the appeal site have been dismissed on appeal. However, such schemes are different to the proposal before me which I have considered on its planning merits.

Green Belt balance

22. Having regard to the development plan and national planning policy, the proposal comprises inappropriate development in the Green Belt. There would also be harm arising from the proposal on the openness of the Green Belt. However, for the above, reasons, I consider that the fallback scheme to be an other consideration of sufficient weight to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness and any other harm. Thus, very special circumstances necessary to justify the development proposed have been demonstrated. Accordingly, there would be no conflict with Policy GBSP1 of the WHDP and the Green Belt provisions of the Framework, 2021. The balance of other considerations in this case means that the appeal should succeed.

Conditions

23. I have taken into account the conditions suggested by the Council, having regard to the tests in the Framework, 2021 and the advice in the Planning

Practice Guidance. I have imposed a condition specifying the relevant plans as this provides certainty.

24. The submitted landscaping details are sufficient and proportionate to the proposal. Therefore, a condition requiring further details is not necessary. Nevertheless, a condition to secure the implementation and maintenance of the landscaping and a condition relating to the proposed facing materials are necessary in the interests of the appearance of the development.
25. Condition 2 is drafted in the format set out above because, unlike an application for planning permission for development yet to commence, in this case where the proposal seeks to alter and in part retain an existing development, it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter. The proposal also seeks to retain part of an existing development which is the subject of an enforcement notice.
26. In light of the above and having regard to Section 180 of the Town and Country Planning Act 1990, a standard three-year implementation condition is not necessary and could delay enforcement action. To this end, it is necessary to ensure that the required details and approved development are completed within specific timescales.

Conclusion

27. For the above reasons, I conclude that this appeal should succeed.

M Aqbal
INSPECTOR