



Appeal Decision

Site visit made on 4 January 2022

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2022

Appeal Ref: APP/G1630/D/21/3284212

1 Lypiatt Cottage, Brockworth Road, Churchdown, Gloucester GL3 2NH

- 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 & Mrs Waters against the decision of Tewkesbury Borough Council.
 - The application Ref 21/00061/FUL, dated 15 January 2021, was refused by notice dated 3 September 2021.
 - The development is erection of timber fence with gate to the front of the property (Retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the application form the appellant confirms that at the time of submitting the application the work had commenced and been completed. At my site visit I saw a fence and gate in place which match those shown on the submitted plans and I have considered the appeal on that basis.
3. The National Planning Policy Framework (Framework) refers to the weight that should be given to relevant policies in emerging plans. The Emerging Plan¹ has been through examination and the relevant policies are broadly consistent with the Framework. Consequently, it carries considerable weight.

Main Issues

4. The main issues of the appeal are:
 - Whether the development is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt and the character and appearance of the area; and
 - If the development is inappropriate, 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 necessary to justify the development.

¹ Pre - Submission Tewkesbury Borough Plan 2011-2031

Reasons

Whether Inappropriate Development

5. The site is located in the Green Belt. Policy SD5 of the JCS² sets out that to ensure the Green Belt continues to serve its key functions, development will be restricted to those limited types of development which are deemed appropriate by the Framework unless very special circumstances can be demonstrated.
6. The Framework outlines that the construction of new buildings, other than in connection with a small number of exceptions, should be regarded as inappropriate in the Green Belt. Inappropriate development according to the Framework should not be approved except in very special circumstances.
7. The term 'building' is not defined in the Framework. The Town and Country Planning Act 1990 defines a building as including any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. Therefore, the development is considered a building.
8. None of the exceptions in the list of exclusions in the Framework apply to this scheme. Therefore, it is contrary to the Framework and Policy SD5 of the JCS. It represents inappropriate development in the Green Belt which according to the Framework is harmful.

Effect on Openness and Character and Appearance

9. The Framework indicates that openness is an essential characteristic of the Green Belt. Policy SD5 of the JCS similarly sets out that the Green Belt aim is to keep land permanently open. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
10. The development comprises fencing and gates across the whole of the roadside frontage of the property. While not taller than the adjacent vegetation, the maximum height of the fence is in the region of 1.8m. Therefore, the appeal scheme has reduced the openness of the Green Belt in spatial terms.
11. Views over the fence and site remain and the country style gates are open in part. Despite this, much of the development is a tall solid timber structure. Given this, along with its scale, position close to the road, bend in the road and sloping land, the scheme is prominent over a lengthy stretch of the approach to the site from either side. While often more limited, it can also be seen from some nearby properties. As such, the scheme has reduced the visual openness of the Green Belt.
12. Soft landscaped boundaries represent the predominant frontage treatment in this row of properties and assimilates into the surrounding field hedgerows. The scheme contrasts unfavourably with this and introduces a more rigid urban feature.
13. Altering the colour of the development would reduce its prominence to some degree. Nonetheless, due to its scale and form, it would still stand out against the more natural and flowing appearance of the mature landscaping it is seen with. Planting would reduce the visual effects of the scheme but not the spatial ones and would take some time to mature and effectively screen the

² Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031

- development. In addition, it is unclear whether sufficient space is available for planting or the implications this would have for sight lines at the access.
14. Although conditions could be imposed regarding landscaping and the colour of the scheme, these should not be used to try to hide development which is inherently unacceptable.
 15. I observed that there are examples of gates and walls in the area, including on the same road. Full details of these schemes have not been provided to me. Notwithstanding this, I saw that while of a similar height, these did not have the same height and width as the scheme before me. Therefore, they are not directly comparable to this development.
 16. Although I do not have detailed measurements of the previous timber fence at the site, it appears to have been of a smaller size, did not have gates and the grey colour was seen against the similar colour of the hard surfacing behind.
 17. Consequently, in both visual terms and spatial terms the development has reduced the openness of the Green Belt. Although the harm is small, this is contrary to the Framework where it states openness is an essential characteristic of the Green Belt.
 18. It has also led to a small degree of harm to the character and appearance of the area. It would conflict with Policies HOU8 of the Local Plan³, Policies SD4 and SD6 of the JCS, Policy RES10 of the Emerging Plan and Policies CHIN2 and CHIN3 of the Neighbourhood Plan⁴. These, in part, seek to ensure development compliments, contributes to, and integrates with, the local character and distinctiveness.

Other Matters

19. The development has enclosed the site creating a secure barrier and I appreciate the desire of the appellant to reduce noise while increasing safety for occupants of the property. Notwithstanding this, there is an absence of detailed evidence regarding the noise reducing effect of the development. It has not been demonstrated that the proposed development is the only means of providing the safety aims of the appellant. Therefore, I give these factors limited weight.
20. It has been put to me that the introduction of a 1m fence represents a fallback position. Although I do not have details of such a proposal, this would be considerably lower than the existing development, lead to lesser spatial effects on the Green Belt and attracts little weight.
21. The height of the fence would screen larger parts of the hard standing and flat roof garage behind. However, given the land within the site is set down from the road level the benefit of the additional height of the fence and gate would be minimal and attracts small weight.
22. The suitability of the speed limit at the site is not a matter for this appeal. That there has been third party support for a proposal in itself is not a ground for refusing or granting planning permission unless founded upon valid planning reasons.

³ Tewkesbury Borough Local Plan to 2011

⁴ Churchdown and Innsworth Neighbourhood Plan 2018-2031

Conclusions

23. The development is inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. It has led to a small loss of openness to the Green Belt and there is further harm to the character and appearance of the area. The other considerations in this case do not clearly outweigh the harm that I have identified.
24. Consequently, the very special circumstances necessary to justify the development do not exist. The development is contrary to Policies HOU8 of the Local Plan, Policies SD4, SD5 and SD6 of the JCS, Policy RES10 of the Emerging Plan and Policies CHIN2 and CHIN3 of the Neighbourhood Plan and the Framework.
25. Therefore, for the reasons given I conclude that the appeal is dismissed.

Stuart Willis

INSPECTOR