



Appeal Decision

Site visit made on 4 November 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2022

Appeal Ref: APP/P1805/W/21/3266954

Westing, Bromsgrove Road, Clent DY9 9RH

- 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 and Mrs M Craddock against the decision of Bromsgrove District Council.
 - The application Ref 20/01347/FUL, dated 27 October 2020, was refused by notice dated 4 January 2021.
 - The development proposed is wall and gates to frontage (Re-submission of 20/0130/FUL).
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Decision

1. The appeal is allowed and planning permission is granted for wall and gates to frontage (Re-submission of 20/0130/FUL) at Westing, Bromsgrove Road, Clent DY9 9RH in accordance with the terms of the application Ref 20/01347/FUL, dated 27 October 2020, and subject to the following condition:
 1. The development hereby approved shall be undertaken in accordance with following plan and drawing: Site Location Plan (1:1250) and Drawing number 3988-02B - Proposed wall and access gates.

Application for costs

2. An application for costs was made by Mr and Mrs M Craddock against Bromsgrove District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') and the development plan;
 - 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; 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

Development in the Green Belt

4. The appeal site is located within the Green Belt. Policy BDP4 of the Bromsgrove District Plan ('District Plan') is similar to Paragraph 149 of the Framework, in that, it regards the construction of new buildings as inappropriate in the Green Belt, subject to certain exceptions.
5. The term "building" is defined as follows in section 336 of the 1990 Act: "building" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.
6. Applying this definition would mean that a structure comprising walls, gates and pillars should be regarded as "buildings" for the purposes of the Framework. I am satisfied that in this case the proposal should be regarded as a building for the purposes of applying Green Belt policy.
7. One of the exceptions under Paragraph 149 includes e) limited infilling in villages. Whilst I acknowledge that the appeal site is within the village envelope, there is insufficient information, specifically to support the appellants' assertion that the proposal constitutes 'limited infilling'.
8. The proposed development is not listed under any of the other exceptions found in the Framework or Policy BDP4 and therefore constitutes inappropriate development in the Green Belt.
9. Given that the appeal site comprises a dwelling and its associated curtilage within an established residential area, I have found that the proposal would not conflict with the purposes of the Green Belt.

Effect on openness

10. Paragraph 137 of the Framework 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".
11. The former boundary along the frontage of the appeal property comprised a mature hedgerow with a gap for vehicular and pedestrian access. The proposal would comprise a permanent and more extensive physical boundary which would stretch along the entire frontage of the appeal property. However, the height of the new wall, which is the main component of the proposed boundary treatment is appreciably lower than the former hedge. Consequently, this along with the recessed pillars and gates would increase the visual openness of the appeal site. Therefore, the proposal would not result in any harm to the openness of the Green Belt.

Character and appearance

12. The appeal site is located in a semi-rural area, with well-spaced development. This part of Bromsgrove Road is straight, with houses set back from the highway, behind frontages of various depths. The treatment of these frontages also varies and includes those incorporating just soft landscaping in the form of

perimeter hedges and planting, boundary treatments comprising walls and railings which are complemented by soft landscaping, tall walls and gates, along with others which are generally open and delineated by low-lying walls. Most notably the boundary treatments in the form of walls and gates are of traditional designs. Nonetheless, together the existing frontages give the area a well-established and varied character and appearance.

13. The new development would be of a contemporary appearance incorporating walls and pillars with a rendered finish and gates of a modern design. Nevertheless, the wall, pillars and gates would be of a comparable height to nearby boundary treatments and of a simple form.
14. Furthermore, as already stated the proposed wall would be of a low height and the pillars and gates would be appreciably recessed from the wall, thereby reducing the overall prominence of the proposed boundary treatment. Also, the proposed scheme includes a hedge along the rear of the wall. This would enhance the appearance of the boundary treatment and complement the site's semi-rural setting, along with enabling the development to assimilate with the streetscene.
15. For the above reasons, the design and scale of the proposed boundary treatment would not harm the character and appearance of the area and does not conflict with Policy BDP19 of the BDP which seeks to secure high quality design.
16. The LPAs second reason for refusal cites BDP Policy BDP4. As this Policy specifically relates to the Green Belt it is not relevant to character and appearance.

Other considerations

17. The Framework 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 appellants have referred me to their 'fallback' position.
18. The fallback is that the proposed development could be erected under the provisions of permitted development. Indeed, the local planning authority's (LPAs) officer report confirms that the one metre high boundary wall would constitute permitted development under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended) ('GPDO'). Although the LPA concluded that the proposed pillars and gates do not benefit from permitted development rights, I have not been provided any clear reason in support of this.
19. The appellants have also referred me to Schedule 2, Part 2, Class A of the GPDO, this grants planning permission for development including the erection of gates, fences and walls. Paragraph A.1 of Class A limits the height of such development to not exceeding 1m where it is adjacent to a highway used by vehicular traffic (paragraph A.1 (a) (ii)) and up to 2m elsewhere (paragraph A.1 (b)).
20. As the pillars and gates would be more than 1m high, it is necessary to establish whether they would be 'adjacent' to the highway. The GPDO gives no definition of 'adjacent' and having regard to its normal meaning and dictionary

definition 'being near or close'. What constitutes 'adjacent to' is therefore a matter of fact and degree and is dependent upon the circumstances of the case.

21. In this case, the pillars and gates would be set back from the nearside edge of the pavement by about 5.4m. This includes nearly 3m of existing driveway, which would extend behind the new front boundary wall. Therefore, and in the absence of any information to the contrary, this arrangement is sufficient to establish that the proposed pillars and gates could not reasonably be considered 'adjacent' to the highway. As the proposed pillars and gates would not be adjacent to the highway and would be about 1.8m in height, these would also constitute permitted development. Given that the appellants have already installed the wall and pillars, there is a clear prospect of the fallback being utilised.

22. 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.

Green Belt balance

23. Having regard to the development plan and national planning policy, the proposal comprises inappropriate development in the Green Belt. However, for the above reasons, I consider the fallback to be an other consideration of sufficient weight to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness. Thus, very special circumstances necessary to justify the development proposed have been demonstrated. Accordingly, whilst there would be conflict with BDP Policy BDP4, having regard to paragraph 148 of the Framework, the balance of other considerations in this case means that the appeal should succeed.

Conditions

24. I have taken into account the conditions suggested by the LPA. As the development subject of this appeal has already commenced it is not necessary for me to impose a condition specifying the standard timescale for the commencement of the development. However, I have imposed a condition specifying the relevant plans as this provides certainty.

Conclusion

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

M Aqbal

INSPECTOR