

Appeal Decision

Site visit made on 18 March 2022

by Jonathan Manning BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2022

Appeal Ref: APP/D1265/D/21/3285980

8 Egmont Drive, St Leonards and St Ives, Ringwood, BH24 2BN

- 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 James Ormiston against the decision of Dorset Council.
 - The application Ref 3/21/1106/HOU, dated 29 May 2021, was refused by notice dated 20 August 2021.
 - The development proposed is replacement of existing boundary fence with acoustic barrier, installation of new service gate.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt and on the character and appearance of the area; and
 - if the development would be inappropriate, whether the 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?

3. The appeal site is located within the Green Belt. The National Planning Policy Framework (the Framework) states at Paragraph 147 that inappropriate development in the Green Belt is harmful by definition and should not be approved unless in very special circumstances. Paragraph 149 of the Framework states that the construction of new buildings constitutes inappropriate development in the Green Belt, apart from seven listed exceptions.

4. For the purposes of the Act the term building includes any structure or erection and therefore includes fences and gates. These are not listed as exceptions for the purposes of Paragraph 149 of the Framework and constitute inappropriate development.
5. The appellant is of the view that because there is an existing boundary fence that the exceptions in Paragraph 149 c) and d) therefore must apply. However, even if I accept such a view, the 1 metre increase in height over the full length of the existing fence would result in a disproportionate addition over the size of the original. The scheme would therefore not meet the requirements of exception c).
6. Turning to exception d), the replacement of the fence would be materially larger than the one it replaces, due to the 1 metre height increase. The proposal would therefore also not meet exception d).
7. Given the above, I consider that the installation of the fencing and service gate would be inappropriate development for the purposes of the Framework. The scheme because of its inappropriateness would, by definition, be harmful to the Green Belt and therefore great weight should be given to this harm.

Openness and character and appearance

8. The appeal site lies within an Area of Great Landscape Value (AGLV). The proposed 3 metre high acoustic fence and gate would face onto Hurn Road. I observed on my site visit that Hurn Road has a largely verdant character, although some glimpsed views through vegetation can be gained of the A338 that runs parallel to it. Indeed, as set out in the appellant's appeal submissions, the AGLV Study notes that '*Hurn Lane, immediately to the west of the Spur Road, is a comparatively narrow, undulating road that twists through the densely-wooded landscape, often edged by rhododendron and gorse*'.
9. There is a fence of between 1.8 and 2 metres in height currently in place on the appeal site and there is also some vegetation between the existing fence and Hurn Road. Due to the proposed increase in height of the 3 metre fence, there would be an enclosing effect on the eastern side of Hurn Road. Whilst there would be retained trees of greater height than the fence, the solid construction, height and length would still be the most dominant feature, creating the enclosing effect. The gate to the A338 on the opposite side of the road would not, in my view, alleviate this.
10. A fence of such scale would appear as a discordant feature that would be prominent when viewed from Hurn Road. The appellant has provided pictures of other examples of tall fences or gates (up to 2.5 metres) in the area. However, none of these have the same height and/or length proposed in this case and are not directly comparable.

11. It is suggested that the fence would weather and that planting could be used to mitigate the appearance of the fence, I consider that it is unlikely to entirely screen the proposed fence, which would be a significant structure given its height and length.
12. The appellant is of the view that as the immediate setting includes land within the AGLV and tree preservation orders, the value is high. I would agree with this view. Further it is suggested that as the immediate setting includes residential land uses (including boundary fencing) and road infrastructure, the susceptibility is negligible. However, I consider this underplays, the heavy tree cover and vegetation that gives the immediate setting a largely verdant character, with some urbanising features. I consider susceptibility to be higher than negligible and is moderate. Consequently, using the appellant's methodology, the sensitivity to the proposed development would likely to be high rather than medium. I would not describe the magnitude of effect as low. Given the fence would be significant in size, have a long-term appearance and appear as an incongruous feature, the magnitude of effect would be moderate. On this basis, I consider that there would be an overall moderate adverse effect on the landscape character of the area.
13. I accept that in terms of visual impacts, these would be localised to views from a small area surrounding the appeal site. This would include neighbouring properties at No 6 and No 10 Egmont Drive, users of Hurn Road and users of the A338. I consider that the appellant has underestimated the potential effects. As set out above, I do not consider that the regeneration of vegetation, new planting and the weathering of the fence would fully mitigate the impacts of its sheer size and scale. Consequently, I consider that there would be minor adverse effects remaining to the neighbouring properties and users of Hurn Road. I agree that effects on the users of the A338 would be negligible given it is set further back from the appeal site than Hurn Road and benefits from another belt of vegetation to screen the scheme.
14. I acknowledge that the AGLV study notes that the 'outstanding' feature of the AGLV is the viewpoint within Avon Heath Country Park, approximately 0.8 km to the south of the Site and the proposed development it not visible from this viewpoint. Further, it is accepted that due to the site's position, the appeal site has no relationship with the adjacent valley landscape and the A338 affects the landscape character of the area. However, I have found above that the scheme would not be in keeping with the character of Hurn Road, which the AGLV study describes.
15. For these reasons, I consider the proposed fence would cause demonstrable harm to the openness of the Green Belt and would also cause an overall moderate level of adverse harm to the character and appearance of the area, that is of great landscape value.

16. The harm to the openness of the Green Belt and to the character and appearance of the area, is in addition to the inappropriateness of the proposal and further weighs against the scheme.
17. The proposal conflicts with Policies HE2 and HE3 of the Christchurch and East Dorset Local Plan (Part 1) (the LP) and Saved Policy DES11 of the East Dorset Local Plan. These policies (amongst other things) seek to ensure that proposals: are of high quality design, reflecting and enhancing areas of recognised local distinctiveness; are compatible or improve their surroundings with regard to scale and height; protect and seek to enhance the landscape character of the area; and means of enclosure of roads respect or enhance their surroundings.

Other considerations

18. I acknowledge that the purpose of erecting the fence is to seek to reduce the level of noise experienced in the back garden of the host property from the A338 to the west. The accompanying noise assessment notes that the fence would result in a reduction in 3dB, but this would still not bring the noise to within acceptable levels. Consequently, it appears that the fence would only have fairly minor benefits in this regard. I therefore afford only limited weight to this matter.
19. As referred to above, a fence could be erected in the same position as that proposed under permitted development. However, this would be lower in height and therefore would have less of an impact than that proposed. Consequently, I afford such a fallback position little weight.
20. The appellant is of the view that the Green Belt boundaries are out-of-date and should therefore carry less weight, as they have not been reviewed recently. The Framework¹ sets out that the general extent of Green Belts across the country is already established and that once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans.
21. The appellant is of the view that the existing Green Belt boundary of relevance to the appeal scheme does not comply with Paragraph 143 f) of the Framework. This sets out boundaries should be defined clearly, using physical features that are readily recognisable and likely to be permanent. In this case the boundary, is in a north to south alignment, either crossing residential gardens or the edge of the residential land uses. I consider that the boundary can be clearly defined from the maps provided and uses physical features in the form of the built dwellings, which are permanent features to be recognisable. I am also mindful that this requirement has not changed from the Framework, 2012 which the examining Inspector would have had regard to when finding the Green Belt boundaries sound at the last formal review.

¹ Paragraphs 139 and 140.

22. I acknowledge that the Dorset Council and Bournemouth, Christchurch and Poole Council Strategic Green Belt Review (the SGBR review), December 2020 of the South East Dorset Green Belt that has been published as part of the preparation of their new local plans, identifies regular residential boundaries as a 'weak boundary'. However, this document does not form part of the development plan, but forms part of the evidence base for the emerging local plans. It does not appear, from the evidence before me, to have been examined as part of any local plan examination. Consequently, I afford its contents as a material consideration little weight.
23. The appellant has referred to Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 and Paragraph 33 of the Framework that both require local plans to be reviewed every 5 years. Whilst these are noted and I accept that it does not appear a local plan review has been undertaken since it was last adopted in 2014, the Framework does not say that if this is not done then the entire development plan is automatically out-of-date.
24. Having regard to these matters and based on the evidence before me, I consider that the boundaries are consistent with the Framework in accordance with Paragraph 219. On this basis, I am not of the view that the Council's Green Belt boundaries are out-of-date and they carry full weight.
25. The appellant has suggested that the part of the Green Belt surrounding the appeal site does not contribute to any of the purposes of the Green Belt. The land between the built-up residential area and the A338 although narrow is significant in length, open and due to the verdant nature of it, appears, in my view, as countryside.
26. I accept that there are some urbanising features, such as, very infrequent glimpses of residential properties at distance, boundary fences/walls and glimpsed views of the A338 often through mature vegetation. There is some relationship with the built settlement edge, namely associated with some residential gardens forming part of the Green Belt in this area. Whilst I would not describe the contribution as strong, it is nonetheless, in my view, meaningful. Consequently, I consider that this part of the area contributes positively to safeguarding the countryside from encroachment, in accordance with Paragraph 138 of the Framework (purpose 3). Although it carries limited weight, I also note that the SGBR review comes to a relatively similar conclusion.
27. The appellant has referred to the Planning Advisory Service (PAS) Green Belt advice note, 2015. This notes that Green Belt land will not play a role with regards to purpose 3 if it is entirely contained within the urban area, and too small to be considered to constitute countryside in its own right. For the reasons given above, I do not consider this to be the case. Given there are some urbanising features and some association

with the settlement edge, I consider that the area falls within the 'has potential to play some role with regards to Purpose 3' category.

28. The appellant has raised concerns with regard to the handling of the application by the Council, including contradictory views and that it did not undertake a physical site visit. However, such matters have not affected my consideration of the appeal.

Conclusion

29. I conclude that the matters raised by the appellant in support of the development do not outweigh the harm to the Green Belt and the other identified harm, by reason of the development's inappropriateness, adverse effect on openness and harm to the character and appearance of the area. Accordingly, there are not the very special circumstances necessary to justify inappropriate development within the Green Belt and the scheme therefore also runs contrary to Policy KS3 of the LP.
30. For the avoidance of any doubt, even had I agreed with the appellant that the scheme fell within one of the exceptions in Paragraph 149 of the Framework, I would have still dismissed the appeal based on the identified harm to the character and appearance of the area.
31. Further, had I agreed that the Green Belt boundaries were out-of-date and/or the area around the appeal site did not meet any of the purposes of the Green Belt, and so the weight afforded to the harm to the Green Belt by virtue of inappropriateness and impact on openness was significantly reduced or even neutralised altogether, I would still not have found very special circumstances existed, due to the identified harm to the character and appearance of the area not being outweighed by any other considerations, including the minor benefits of the scheme in terms of decreased noise levels.
32. Given all of the above, the appeal is dismissed.

Jonathan Manning

INSPECTOR