
Appeal Decision

Site visit made on 25 April 2022

by J L Cheesley BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2022

Appeal Ref: APP/W1525/D/21/3286400

Wards Lodge, Highwood Road, Loves Green, Chelmsford, Essex CM1 3QJ

- 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 Chris Mullane against the decision of Chelmsford City Council.
 - The application Ref 21/01471/FUL was refused by notice dated 8 September 2021.
 - The development proposed is replace 1.3m high 5 bar wooden gate with 2m high ornate metal gate.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application and Council's decision refer to the address of the property as Loves Green, Highwood. The planning appeal form refers to the address as Highwood Road, Loves Green. It appears that the latter is the correct address. Although the description of the proposal refers to the installation of one gate, it is clear from the representations that the proposal is for a pair of gates.

Main Issues

3. I consider the main issues to be:

whether the proposal would amount to inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies, and if so, 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 proposal;

the effect of the proposal on the openness of the Green Belt;

the effect of the proposal on the character and appearance of the surrounding area; and

the effect of the proposal on the setting of Wards Lodge, a Grade II listed building.

Reasons

4. The Framework explains that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. The construction of new buildings in the Green Belt is inappropriate unless in accordance with exceptions in the Framework. These include the replacement of a building provided the new building is not materially larger than the one it replaces.
5. Strategic Policy S11 in the Chelmsford Local Plan (2020) seeks to protect the openness and permanence of the Green Belt. Policy DM6 refers to new buildings within the Green Belt and states that planning permission will be granted for a list of exceptions to inappropriate development. This list includes replacement buildings in accordance with Part C of the policy. Part C includes the need to ensure that the new building is not materially larger than the one it replaces; would not be out of keeping with its context and surroundings and would not result in any other harm. Whilst the Council has referred to Policy DM10, those Green Belt policies most relevant to this proposal are outlined above and are broadly in accordance with the Framework in this regard.
6. The proposal is to replace an existing traditional wooden gate with a pair of higher 2m high ornate metal gates. From my observations, due to the height of the proposed gates, this would result in a building materially larger than the one it replaces. Thus, in accordance with the Framework, the proposal would constitute inappropriate development in the Green Belt.
7. Added to the harm of being inappropriate development is the impact that the proposal would have in diminishing the sense of openness of this part of the Green Belt. The proposal would add an intensification of urbanising domestic built form to this rural setting and due to the height and design of the gates they would have an enclosing effect. Whilst shielded to some extent from public view by mature trees, the introduction of the proposed built form would further diminish the sense of openness of this part of the Green Belt.

Character and Appearance

8. The appeal property lies in a rural area, where soft landscaped frontages and boundary treatments make a positive contribution to the character and appearance of the area. Due to the scale and stark urban design of the proposed gates they would appear as incongruous additions to this rural setting. This would be to the detriment of the character and appearance of the surrounding area. Thus, the proposal would be contrary to Local Plan Policy DM23, where it seeks to ensure that new development respects the character and appearance of the surrounding area. I consider Policy DM23 to be broadly consistent with the Framework, especially where the Framework seeks to ensure good design.

Listed Building

9. The *Planning (Listed Buildings and Conservation Areas) Act 1990* imposes duties requiring special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

10. The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Local Plan Strategic Policy S3 and Policy DM13 are broadly in accordance with the Framework in this regard.
11. Wards Lodge is a Grade II listed building. This is a designated heritage asset. The listing describes it as a small C17, C18 timber framed house with a cross wing at the east end. The setting of Wards Lodge is its garden, which includes the entrance gate, within a wider rural setting.
12. From my observations, due to the design and scale of the proposed gates, they would have an adverse urbanising effect on the setting of the house, but this would be less than substantial harm as set out in the Framework. I note that the proposed gates would increase security for the premises. This would have only limited wider public benefit.
13. I have attributed considerable importance and weight to the duty and the presumptive desirability of preserving the setting of the listed building, which I do not consider, for the reasons stated above, is outweighed by any benefits of the proposal. In particular, having regard to the Framework, I find that the harm is not outweighed by any public benefit. Thus, the proposal would be contrary to Local Plan Strategic Policy S3 and Policy DM13.

Other Considerations

14. I have been referred to examples of other gates in the vicinity. None is directly comparable to the proposal before me, which I have determined on its individual merits. Therefore, I have attributed limited weight to these examples in my determination of this appeal.
15. I note the need for security and this is a material consideration. Nevertheless, the proposal is not the only means of achieving greater security for the premises. Therefore, I have attributed limited weight to this matter in my determination of this appeal.

Conclusion

16. In reaching my conclusion, I have had regard to all matters raised. It is necessary to determine whether there are other considerations which clearly outweigh the harm to the Green Belt, and any other harm, hereby justifying the proposal on the basis of very special circumstances. The proposed gates, due to their size, would constitute inappropriate development in the Green Belt and due to their size and design would diminish the sense of openness of this part of the Green Belt. In addition, for the same reasons, they would have an adverse effect on the character and appearance of the surrounding area and on the setting of the listed building. The considerations advanced in support of the proposal do not clearly outweigh the harm it would cause to the Green Belt and any other harm. In conclusion, I am of the opinion that there are no material factors that would amount to the very special circumstances needed to clearly outweigh the presumption against inappropriate development in the Green Belt. For the reasons stated above, the proposal would be contrary to policy outlined in the Framework, Local Plan Strategic Policies S3 and S11 and Policies DM6, DM13 and DM23.

J L Cheesley INSPECTOR