



Appeal Decision

Site visit made on 23 August 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6TH September 2022.

Appeal Ref: APP/D1265/W/22/3298549

Holly Hedge, Verwood Road, Three Legged Cross BH21 6RJ

- 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 Daniel Pashley against the decision of Dorset Council.
 - The application Ref 3/21/1422/FUL, dated 19 July 2021, was refused by notice dated 14 January 2022.
 - The development proposed is stable block, movable refuge and new boundary fence to paddock.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit a stable block and a fence had been erected in the approximate locations indicated on the submitted drawings and a movable refuge similar to that shown on the drawings was located on the site. A wooden structure not shown on the submitted drawings was also on site, towards the southeast corner. Notwithstanding what has been erected on site, and regardless of the fence dimensions stated in the appellants statement, the appeal has been determined based on the submitted drawings.
3. The Council concluded that the movable refuge was small and capable of being easily moved around the site so did not qualify as development. Furthermore, they concluded that the stable building and use of the paddock for private equestrian purposes preserved the openness of the Green Belt and was not inappropriate development so complied with Green Belt policy set out in the National Planning Policy Framework (the Framework). As a result, these elements do not form part of the reasons for refusal. On the basis of the information before me and the evidence of my site visit, I have no reason to conclude otherwise. Therefore, this appeal will focus only on the fence, for its entire length adjacent to Verwood Road.
4. While the Framework does not define 'building', the definition of a building under section 336 of the Act includes "any structure or erection". Case law¹ has established that size, permanence and physical attachment to the ground are important considerations in deciding if something is a building or not. The fence in this case is a substantial length, is solidly attached to the ground and is designed to be permanent. Therefore, I consider the fence to be a building for the purposes of the assessment under this appeal.

¹ Including *Skerritts of Nottingham Limited v Secretary of State for the Environment, Transport and the Regions* [2000]

Main Issues

5. The main issues are:

- Whether the fence is inappropriate development in the Green Belt having regard to the Framework, including the effect on the openness of the Green Belt;
- The effect of the fence on the character and appearance of the area; and
- If the fence is found to be inappropriate development, 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.

Reasons

6. Holly Hedge is a detached house in an area of dispersed residential development. The adjacent paddocks front onto Verwood Road and have a lawful use for agriculture. The site lies within the South East Dorset Green Belt.
7. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Development within the Green Belt is inappropriate, with certain exceptions that are set out in Framework paragraphs 149 and 150. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. The Council officer report lists Green Belt Policy KS3 of the Christchurch and East Dorset Local Plan, Part 1 - Core Strategy (adopted April 2014) (LP) as a relevant policy. However, due to the age of Policy KS3 of the LP, which pre-dates the updated Framework, I have based my Green Belt considerations on Framework Policy. This is also the approach taken by the Council who do not refer to Policy KS3 of the LP in their assessment or reasons for refusal.

Whether or not it is inappropriate development, including the effect on Green Belt openness

9. Framework Paragraph 149b allows for the provision of appropriate facilities (in connection with a change of use) for outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. It is on this basis that the equestrian use and stables have been considered to be not inappropriate development in the Green Belt. The fence does not relate to extending, altering or replacing a building and I have no evidence to suggest that any of the other exceptions set out under Paragraphs 149 and 150 apply to the fence. Therefore, the fence needs to be considered against the requirements of Paragraph 149b. Given the context of the site, I have no evidence to suggest that the fence significantly conflicts with the purposes of including land within the Green Belt, so the key assessment is whether it would preserve openness.
10. The fence is a considerable height and length and fronts onto the highway. The section of fence along paddock 1, nearest to the house, is close to the footway, with some recent planting in the very narrow border between the fence and the footway. The fence along paddock 2 is set back from the footway with some mature trees in the intervening border.

11. The fence is solid and does not allow for any views through it. Prior to the installation of the fence, the paddock would have been open to the highway, allowing views between the trees into the site and the land beyond. Therefore, the fence significantly closes down the visual openness of the site and the surrounding area. Consequently, the proposal cannot meet the requirements of Paragraph 149b as it fails to preserve the openness of the Green Belt.
12. For the above reasons, the appeal proposal does not meet the criteria of any of the exceptions set out in the Framework. Hence it would be inappropriate development in the Green Belt. Inappropriate development in the Green Belt is, by definition, harmful. However, while the fence is highly visible from the road, it is not an excessive height and there is a range of built form in the immediate vicinity. Consequently, the degree of harm to openness caused by the fence is moderate. Notwithstanding this, in accordance with the Framework, I attach substantial weight to this harm to the Green Belt.

Character and appearance

13. The residential development in the area, particularly along most of Verwood Road is spread out and interspersed with fields, paddocks and open spaces. This gives the area a pleasant semi-rural character, commensurate with its location outside of any defined settlement.
14. The fencing is highly visible from the road and has the form and appearance of a residential fence, commonly used as a garden boundary treatment in urban areas. The fence subject to this appeal is around paddocks, not a garden, and as such it significantly domesticates the appearance of the site and closes down a break in built form. This is out of keeping with and detrimental to the semi-rural character of the area. As noted above, there is some existing and recent planting near the fence which softens the appearance to some extent. Despite this, the new planting will be constrained by the available space and existing trees are mature so provide limited screening at the level of the fence.
15. There are a number of similar fences in the area, of various heights and lengths, most of which seem to be around garden spaces and are viewed in the context of dwellings. Several fences in the vicinity of the site are adjacent to Verwood Road but delineate the edge of rear gardens of dwellings which front onto Broad Mead Road. Notwithstanding this, many of the existing fences adjacent to Verwood Road do not make a positive contribution to the character and appearance of the area. I have been presented with no substantive information regarding the planning status of these other fences. As such, the existence of other close boarded fences in the area does not justify an additional close boarded fence of a significant length, and around a paddock not a dwelling, which would exacerbate the negative impact that such fences have on the area.
16. I conclude that the proposed development would cause unacceptable harm to the character and appearance of the area. Consequently, the development would not comply with Policies HE2 and HE3 of the LP, which together, amongst other things, seek to ensure that development is well designed, compatible with its context and enhances the landscape character of the area.

Other considerations

17. I acknowledge that the stables and equestrian land need some form of boundary treatment to delineate the land and ensure animals are safely contained within the site which is next to a busy road. However, other options could potentially achieve this whilst preserving the openness of the Green Belt. The fencing may also assist in reducing road noise in the paddock and interaction between people passing the site and the horses. No evidence has been presented to suggest that this is necessary and indeed there are other sites along Verwood Road where horses are kept without close boarded fencing at the boundary. Security has also been cited as a reason for the fencing, but I have been provided with no substantive evidence which would lead me to conclude that the fencing is an essential and proportionate response or the only suitable option. As noted above, there are other close boarded fences in the area, but this does not justify an additional fence which would exacerbate the negative impact. Consequently, I afford these other considerations limited weight.

Planning Balance and Conclusion

18. The fence would be inappropriate development in the terms set out by the Framework and would result in moderate harm to Green Belt openness. The Framework requires that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
19. The other considerations, even when all factors are combined together, as set out above do not clearly outweigh the harm to the openness of the Green Belt. Consequently, the very special circumstances required to justify a grant of planning permission do not exist and the fence conflicts with the Framework. The fence also conflicts with Policies HD2 and HD3 of the LP, which seek to protect landscape character. Consequently, the fence fails to comply with the development plan taken as a whole and I find no material considerations which outweigh this finding. Therefore, for the reasons given the appeal is dismissed.

Helen Davies

INSPECTOR