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# Appeal Decision

Site visit made on 18 October 2022

**by Stephen Hawkins MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 October 2022**

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**Appeal Ref: APP/X0415/C/21/3280234**

**Land north east of Pednor Road, Chesham, Buckinghamshire HP5 2JU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Syed Ahmed against an enforcement notice issued by Buckinghamshire Council.
  - The notice was issued on 5 July 2021.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of fencing.
  - The requirements of the notice are: 1. Remove from the land all fence posts, metal railings running between the posts and concrete fence post footings; 2. Remove from the land all debris and materials arising as a result of compliance with step 1.
  - The period for compliance with the requirements is one month.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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## Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

## Ground (a) appeal

### Main Issues

2. The appeal site is located within the Metropolitan Green Belt, as well as in the Chilterns Area of Outstanding Natural Beauty (AONB). Therefore, the main issues in this appeal are:
  - Whether erection of the fencing amounts to inappropriate development, having regard to the National Planning Policy Framework (the Framework) and the Development Plan.
  - The effect on Green Belt openness.
  - Whether the landscape and scenic beauty of the AONB is conserved.
  - 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 required to justify granting permission for the fencing.

## Reasons

### *Whether inappropriate development*

3. The appeal site is roughly triangular in shape. It has a sloping landform and is occupied by maturing trees forming part of a more extensive tract of woodland within a wider area of open countryside.
4. The enforcement notice attacks fencing around 1.2 m in height erected adjacent to the site boundaries. The structure consists of cylindrically shaped treated timber posts positioned at regular intervals, with galvanised wire stockproof fence strung between the posts.
5. Paragraph 149 of the Framework advises that with certain exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One of those exceptions is buildings for agriculture and forestry. Policy GB2 of the Chiltern Local Plan (LP), which states that new buildings will not be inappropriate development where there is a reasonable requirement for agricultural or forestry purposes, is consistent with the Framework.
6. The fencing is clearly a 'building' according to the definition in s336 of the Act. Even so, there is no clear forestry or agricultural function that the fencing serves. For example, it does not protect a vulnerable crop from pests or protect any livestock. There is no obvious forestry or agricultural activity at the site. Seeking to prevent incidences of trespass and anti-social behaviour at the site is not directly related to forestry or agricultural activity, as that could be relevant to any use of land. Moreover, in my experience it is unusual to enclose woodland or mark out its boundaries with fencing.
7. Consequently, erecting the fencing amounts to inappropriate development in the Green Belt, being inconsistent with paragraph 149 of the Framework and contrary to LP Policy GB2. At paragraph 147, the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

### *Effect on openness*

8. Before erecting the fencing, it is highly likely that the site was mostly open with only natural features being present. The fencing is of limited height and its constituent components are reasonably lightweight, with slender profiles. Nevertheless, by its presence the fencing has resulted in a significant portion of the site being enclosed by or adjacent to man-made features, where none existed previously. This has led to a modest reduction in openness, which is readily apparent from adjacent public rights of way. The Framework at paragraph 137 advises that openness is an essential characteristic of Green Belts. The failure to preserve openness, albeit in a modest way, is also harmful to the Green Belt.

### *Landscape and scenic beauty of the AONB*

9. The site occupies a secluded, distinctly rural setting, largely characterised by an undulating landform with expansive open fields and occasional tracts of maturing woodland, in which there are limited incidences of substantial built development. These attributes all make a significant contribution to the scenic qualities of the locality.

10. The angular profiles and light colours of the fencing give it an obviously manufactured appearance. This contrasts unfavourably with the softer shapes and more muted, naturalistic colour tones of the maturing trees and vegetation fringing adjacent public rights of way and the traditional hedgerows in the surrounding area. Therefore, the fencing fails to assimilate satisfactorily with its rural setting, appearing as an alien feature in the surroundings and eroding the visual qualities of the local landscape. The position of the fencing on rising land, open to view from public rights of way both close up and at slightly greater distance, accentuates the sense of visual intrusion in the surroundings.
11. As traditional hedgerows remain the principal field boundary treatment in the immediate and wider locality, incidences of similar fencing in the environs are limited. In any event, there is no evidence before me to indicate that other fencing originated in circumstances that are comparable to those in this appeal.
12. The failure to conserve the special landscape character and high scenic quality of the AONB is contrary to LP Policy LSQ 1 and Policy CS22 of the Chiltern Core Strategy, as well as being inconsistent with the Framework at paragraph 176.

#### *Other considerations*

13. The appellant's reasons for erecting the fencing, set out above, weigh slightly in favour of granting permission. However, the woodland Tree Preservation Order made by the Council in respect of land including the site has little bearing on this appeal. Additionally, advice given by Council officers is of limited relevance, as is the Council's recent refusal of a planning application for works at the site including an agricultural building and the fencing. Whether there should continue to be an Article 4(1) Direction restricting permitted development rights to erect gates, fencing and means of enclosure at the site and on adjoining woodland plots is not a matter for this appeal.

#### *Planning Balance*

14. Erecting the fencing has amounted to inappropriate development in the Green Belt, also harming Green Belt openness. The harm to the Green Belt carries substantial weight, in accordance with the Framework at paragraph 148. Furthermore, the fencing fails to conserve the landscape and scenic beauty of the AONB. The other considerations do not clearly outweigh the harm that I have identified. Accordingly, the very special circumstances necessary to justify permitting the fencing do not exist.

#### **Conclusion**

15. The fencing is inconsistent with the Framework and does not accord with the Development Plan. Therefore, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

*Stephen Hawkins*

INSPECTOR