



Appeal Decision

Site visit made on 13 December 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 January 2023

Appeal Ref: APP/C2741/D/22/3306932

28 Lakeside, Acaster Malbis, York YO23 2TY

- 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 James Parker against the decision of City of York Council.
 - The application Ref 22/00886/FUL, dated 26 April 2022, was refused by notice dated 7 July 2022.
 - The development proposed is described as 'replace existing vehicular access gates with new vehicular access gate'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's reasons for refusal refer to the City of York Draft Local Plan Incorporating the Fourth Set of Changes - Development Control Local Plan (2005) (DCLP) and the emerging Local Plan (the emerging LP) which is currently undergoing examination. Although the DCLP does not form part of the statutory development plan for the purposes of S38(6) of the Planning and Compensation Act 2004, it is a material consideration in determining planning applications. I have given both the DCLP and the emerging LP weight only in so far as they are consistent with the National Planning Policy Framework (the Framework).
3. It is common ground that the appeal site lies within the Green Belt. However, the officer's report does not consider the proposal to be inappropriate development and as such the reasons for refusal do not cite Green Belt harm.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. Lakeside is a residential cul-de-sac consisting of predominantly large detached houses set back behind front gardens and driveways. Front boundaries are mostly defined by hedges, some of which include low post and rail fencing. Alongside mature planting in the front gardens, this gives the streetscene a pleasant and verdant character.
6. The boundary hedges are often tall, but driveway entrances are typically unenclosed and open, allowing views of the houses and front gardens from the road and providing a break in the otherwise relatively tall and impermeable

boundary treatments. Where present, gates are typically relatively low and of an open horizontal rail style, allowing views through and maintaining the character of open driveway entrances. On the site visit I saw that this open character was consistent even towards the turning head where walls are more prevalent than hedges.

7. The appeal property has a relatively wide driveway entrance with a low sliding gate and a low wall with a hedge growing behind it. Whilst the sliding gate is solid boarded timber, its low height (1.0 metres high) still allows for views over it and as such helps to reinforce the character of open driveway entrances referred to above.
8. It is proposed to replace the sliding gate with 1.8 metres high solid vertically boarded double gates with 1.8 metres high brick piers. The width of the entrance and the significant height of the proposed gates would lead to the installation of a significantly more substantial and oppressive structure than exists at present, severely limiting views across the driveway and front garden. This would not be significantly mitigated by the gates and piers being set back from the pavement edge. Moreover, the proposal would appear incongruous and at odds with the breaks in the hedges formed by open driveway entrances that are characteristic of the streetscene. Overall, the proposal would result in an unsympathetic form of development that would be poorly related to its surroundings.
9. Furthermore, whilst each application and appeal must be treated on its individual merits, I can appreciate the Council's concerns that approval of this proposal could be used in support of similar schemes for tall gates on Lakeside. In my view, this is not a generalised fear of precedent, but a realistic and specific concern given the likely similarity of the frontages of properties here. Allowing this appeal would make it more difficult to resist further planning applications for such developments which would gradually erode the existing character referred to above.
10. For the above reasons I therefore conclude that the proposed development would harm the character and appearance of the area. The proposal would therefore conflict with Policies D1 and D11 of the emerging LP and Policies GP1 and H7 of the DCLP which together, and amongst other things, seek to provide high standards of design and preserve character and appearance.
11. The proposal would also conflict with paragraph 130 of the Framework which, amongst other things, seeks to ensure new developments add to the overall quality of the area, are visually attractive and sympathetic to the character and appearance of the area. There would also be conflict with the York Supplementary Planning Document: House Extensions and Alterations (2012) which emphasises the importance of boundary treatments reflecting the character of the area.

Other Matters

12. Notwithstanding that the Council has not found Green Belt harm, I am required to assess whether the development would be inappropriate development in the Green Belt having regard to the approach in the Framework.
13. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 149 of the Framework sets out that, other than several exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate development. Such exceptions include at 149. c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; and 149. d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

14. The term 'building' is not defined in the Framework. However, the Town and Country Planning Act 1990 defines a building as including any structure or erection, and any part of a building. Therefore, in the absence of any evidence to the contrary I conclude that the proposed gates and piers fall within this definition and constitute a building.
15. The proposed replacement gates and piers would increase from 1.0 metre in height to around 1.8 metres at the highest point and would also introduce 1.8 metre high brick piers. The proposal would consequently amount to a significantly larger volume, height and overall size. This would, to my mind, be more than could be considered to be an alteration or extension, and in any case would represent a disproportionate increase in scale when compared to the size of the original gate. Owing to this substantial increase in size, the gates and piers would be materially larger than the relatively low-level gate they would replace.
16. For the above reasons the proposal would not meet any of the exceptions included at paragraph 149 of the Framework. I therefore conclude that the proposal represents inappropriate development within the Green Belt.
17. Moreover, the additional height, solid nature and enclosing effect of the gates certainly reduces openness, effectively cutting the site off from the surroundings in a way that the existing low gate or the aforementioned gates nearby do not.
18. Paragraph 148 of the Framework states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, including harm to openness is clearly outweighed by other considerations. I have taken into account the appellant's concern regarding security, and I note that there could be clear benefits in that regard. However, these would be personal benefits that carry limited weight when compared to the public harm that I have found above.
19. I have not been provided with any convincing evidence to back up the appellant's assertion that the proposal would generally reduce the fear of crime in the locality and this therefore carries limited weight. I accept that the proposal would incorporate landscaping however it appears that the hedge is at least partly in place and I note that provision of landscape planting such as this is not dependent upon the provision of the gates. This matter therefore carries limited weight in favour of the proposal. The proposal would provide work for a local builder or joiner but given the small scale nature of the development, this economic benefit would inevitably be limited and short-lived.
20. It is therefore unlikely that a combination of the benefits put forward by the appellant would amount to very special circumstances so as to clearly outweigh the harm of inappropriate development in the Green Belt combined with harm to openness and the harm I have found to character and appearance. However,

as I have found harm in relation to the main issue it is not necessary for me to consider this issue further.

21. I accept that there were no objections to the application from local residents. However, the lack of local objection to a scheme in itself does not mean that it is acceptable in planning terms.

Conclusion

22. For the reasons given above, having considered the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR