



Appeal Decision

Site visit made on 17 January 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2023

Appeal Ref: APP/N4720/W/22/3311394

5 Norwood Fold, Menston, Ilkley LS29 6GS

- 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 Andrew Booth against the decision of Leeds City Council.
 - The application Ref 22/04938/FU, dated 17 July 2022, was refused by notice dated 27 October 2022.
 - The development proposed is the installation of electric gates across the private boundary of 5-8 Norwood Fold.
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Decision

1. The appeal is dismissed.

Preliminary Issues

2. The address of the appeal site is referred to on the application form and appeal form as 5 Norwood Fold. The description of the development describes the development as the "installation of electric gates across the private boundary of 5-8 Norwood Fold". The red line boundary includes Nos. 5-8 Norwood Fold. I have therefore determined the appeal on the basis that the appeal site is Nos. 5-8 Norwood Fold.
3. The officer report and the first reason for refusal refer to the site as being located within the Green Belt. However, no Green Belt assessment has been carried out by the Council. The main parties were given the opportunity to comment on the site's Green Belt location with regard to their respective cases. I am satisfied that the main parties have not been prejudiced by this approach. I have determined the appeal accordingly.
4. The appellant refers to positive pre-application discussions with officers at the Council. However, I am mindful that pre-application discussions are informal and not binding on any future decision the local planning authority may make once a proposal has been subject to the formal planning process. This matter does not lead me away from my conclusion on the main issues in this case.
5. I acknowledge the appellant's concern over the handling of the planning application. However, this is not a matter that I can consider under a Section 78 appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal and instead is a matter for the appellant and the Council to resolve.

Main Issues

6. The site is located in the Green Belt. The main issues are therefore:
- whether or not the proposal is inappropriate development in the Green Belt including its effect on openness;
 - the effect of the proposed development on the character and appearance of the site and the surrounding area;
 - the living conditions of the occupiers of No. 4 Norwood Fold with particular regard to disturbance.
 - if the development is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

7. The appeal site comprises four detached houses at the head of a cul-de-sac which is part of a wider development recently constructed within the grounds of the former High Royds Hospital between Menston and Guiseley. The entrance to the shared driveway is delineated by stone pillars, walls, wrought iron style railings and a band of grey block pavements with kerb stone edging. The proposal is for the installation of a pair of electronically operated, high curved topped wrought iron style gates and a pedestrian gate to the side with a section of railing fence.

Inappropriate development

8. The appeal site lies within the Green Belt and the area is therefore subject to national planning policy that seeks to maintain the permanent openness of 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 permitted. Paragraph 149 of the Framework states that the construction of buildings constitutes inappropriate development in the Green Belt, apart from seven listed exceptions.
9. For the purposes of the Act¹ the term building includes any structure or erection and therefore includes gates and fences. Gates and fences are not listed as exceptions for the purposes of paragraph 149. Therefore, the installation of the gates and fence would be inappropriate development for the purposes of paragraphs 147 and 149 of the Framework. The development because of its inappropriateness would, by definition, be harmful to the Green Belt and, in accordance with Framework paragraph 148 substantial weight should be given to that harm.
10. The proposed gates would be significantly higher than the majority of the surrounding means of enclosure in the locality. However, given their limited length and size they represent only a limited impact on the overall openness of the Green Belt. Openness being defined as representing an absence of built or otherwise urbanising development. The impact of the proposed development on openness would be limited.

¹ Town and Country Planning Act 1990

11. The proposal would, however, be inappropriate development in the Green Belt which, by definition, is harmful. The Framework requires that substantial weight must be given to any harm through inappropriateness to the Green Belt. I, therefore, consider this harm weighs significantly against the proposal.

Character and appearance

12. Boundaries to dwellings in this part of the estate are mostly made up of low stone walls, railings and hedges, with the notable exception of the high stone pillars at the entrance to appeal site. The proposed gates and fence would be much higher and more ornate than most of the other walls and fences close by.
13. The shared driveway beyond the high stone pillars serving Nos. 5-8 is unadopted and the end of the public highway is clearly denoted by the change in surface material. The high stone pillars themselves denote a sense of the change in status of the highway at this point. A generously sized turning area is provided within the public highway immediately prior to the appeal site.
14. The gates have been designed to reflect the design of wrought iron railings which are a traditional feature within the old hospital grounds and would replicate the short stretches of wrought iron fencing immediately beyond the stone pillars at the entrance to the shared driveway. I also appreciate that this detailing has been utilised across the wider housing development. However, this does not mitigate the abrupt enclosing and incongruous effect that the proposal would have on the head of the cul-de-sac.
15. The Council is concerned that the proposal would reduce natural surveillance in the locality and would remove a safe place for children to play. Whilst I do not share these concerns, the proposed gates would create a permanent physical barrier across the head of the cul-de-sac which would be out of character with its surroundings.
16. I therefore conclude that the proposal would harm the character and appearance of the site and its surroundings and conflicts with Leeds Unitary Development Plan Review 2006 (UDPR) saved policies GP5 and BD6 and Leeds Core Strategy 2019 (CS) policy P10 which, amongst other things, seek to ensure that new development is of high-quality inclusive design and respects the character and quality of surrounding buildings. The proposal would also conflict with the advice set out in the Council's Supplementary Planning Guidance Neighbourhoods for Living (SPG), policy HDG 1 of the Householder Design Guide and the design aims set out in paragraphs 130 and 134 of the National Planning Policy Framework (the Framework).

Living conditions

17. Vehicles waiting for the gates to open would do so on the highway in front of No. 4 Norwood Fold. The appellant has suggested that there is adequate space for vehicles to wait beyond No. 4's driveway entrance. However, in reality vehicles are more likely to wait back from the gates and be positioned centrally within the carriageway at this point. This would position them at least partially in front of No.4's driveway entrance especially if drivers were unfamiliar with the direction that the gates opened. Whilst I appreciate that the majority of vehicles requiring access to the shared driveway would be familiar with the arrangement, this may not always be the case.

18. There would be likely to be a reasonably significant wait whilst the gates open for any vehicle. Given multiple households would require regular access to this area, it would mean that the driveway to No. 4 could be blocked on a regular basis. Furthermore, the stopping, starting and idling of vehicle engines directly in front of No. 4 would also lead to a source of disturbance as a result of waiting for gates to open. I therefore cannot rule out the possibility that the gates would cause regular inconvenience and disturbance to the occupiers of No. 4 which would adversely affect their living conditions.
19. I therefore find that the proposal would unacceptably harm the living conditions of the occupiers of No. 4 Norwood Fold with particular regard to disturbance. The proposal would be contrary to UDPR saved policies GP5 and BD6 and CS Policy P10 which, amongst other things, seek to ensure that the impact of development on amenity is minimised. The proposal would also conflict with Framework paragraph 130 which seeks to ensure that new development provides a high standard of amenity for existing and future users. I do not, however, find any conflict with the SPG with regard to amenity issues nor would there be any direct conflict with regard to this main issue with Framework paragraph 134 which relates to design matters.

Other considerations

20. The proposal would provide increased security for the properties served from the shared driveway and act as a physical barrier and deterrent. Reference had been made to incorrect public use of the shared driveway for turning. I have not, however, been provided with any compelling evidence that this is the only solution to discourage visitors to properties elsewhere from using the area for turning, for example through signage. I have also not been provided with evidence that alternative security solutions for the properties are not available or that they are particularly vulnerable. I therefore attach little weight to this benefit.
21. The properties served from the shared driveway do not have raised kerbs to distinguish their driveways and front gardens from the shared driveway, and the proposal would provide the occupants of Nos. 5-8 with a safe place for children to play. I understand the appellant's desire to ensure that children playing within the shared area are safe. However, I have not been provided with any compelling evidence that this is their only place to play. I also understand that the gates would increase levels of privacy for the properties accessed from the shared driveway. These matters do not outweigh the harm that I have identified above.
22. It has been stated by the appellant that gates were part of a previously approved scheme. However, I have not been provided with any further details of those gates. In any event, I am obliged to determine the appeal on the evidence before me and on the basis of the submitted information. This is not a matter which would lead me to conclude otherwise on the main issues as set out above.
23. I have had my attention drawn to a number of other gates in the area. The gate at Wharfedale Court is a wooden five-bar style gate at the entrance to a long driveway up to properties, and at the time of my site visit was stood open. The gates on Norwood Avenue are low and between two lengths of stone wall and form the entrance into a small courtyard. To my mind, neither of the

examples cited are directly comparable with the appeal before me and do not lead me to reach an alternative conclusion.

24. The appellant suggests that a similar but lower means of enclosure could be achieved under permitted development, but I have little evidence to support this claim. A lower gate and railings would not have the same harmful visual effect as the proposal before me for the reasons I have set out above. I have therefore considered the appeal on the basis of what is proposed and its consequent effects. Matters relating to covenants and land ownership are not matters which I can take into account in the planning merits of a proposal.

Planning Balance and Conclusion

25. I find that the proposal would amount to inappropriate development in the Green Belt. I afford this harm substantial weight in the planning balance. Limited harm would be caused to the openness of the Green Belt. There would harm to both the character and appearance of the site and the surrounding area and the living conditions of the occupiers of No.4 which would be conflict with UDPR saved policies GP5 and BD6 and CS Policy P10, advice provided in the HDG and SPG and the Framework.
26. The matters raised by the appellant in support of the development do not outweigh the substantial harm to the Green Belt by reason of the development's inappropriateness, its limited effect on openness and the adverse effects on the character and appearance of the area and to the living conditions of the occupiers of No. 4. Accordingly, there are not the very special circumstances necessary to justify inappropriate development within the Green Belt. Consequently, the appeal is dismissed.

KL Robbie

INSPECTOR