



Appeal Decision

Site visit made on 20 March 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 30 March 2023

Appeal Ref: APP/N3020/D/22/3313628

28 Church Lane, Linby, Nottinghamshire NG15 8AB

- 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 D Bloy against the decision of Gedling Borough Council.
 - The application Ref 2022/1133, dated 28 September 2022, was refused by notice dated 2 December 2022.
 - The development proposed is existing driveway wall to be raised in height by approximately 475mm to a maximum height of 1675mm and removal of conifer hedge.
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Decision

1. The appeal is allowed and planning permission is granted for existing driveway wall to be raised in height by approximately 475mm to a maximum height of 1675mm and removal of conifer hedge at 28 Church Lane, Linby, Nottinghamshire NG15 8AB in accordance with the terms of the application, Ref 2022/1133, dated 28 September 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Existing and Proposed Ref.0622/2240-1A.
 - 3) Prior to the commencement of development, the precise details of the wall and gate piers are to be submitted to and approved in writing by the Borough Council.
 - 4) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issues

2. The main issues are:
 - Whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt, and;
 - If the proposal would be inappropriate, 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 the proposal.

Reasons

Whether inappropriate development

3. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 137 of the Framework states that the Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their openness and their permanence.
4. Policy 3 of the Gedling Borough Aligned Core Strategy (2014) (ACS) is consistent with the Framework in that it seeks to protect the Green Belt, gives consideration to the statutory purposes and the need to maintain openness.
5. The term 'building' is defined in Section 336 of the Town and Country Planning Act 1990, to include any structure or erection. Applying this definition therefore means that the driveway wall subject to this appeal can reasonably be considered as a building for the purposes of the Framework.
6. Although The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, a number of exceptions are set out in Paragraph 149 and 150. Paragraph 149 is concerned with buildings and exception c) allows 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.
7. It is proposed that the existing driveway wall at the entrance to 28 Church Lane is increased in height by 475mm which the appellant advises would represent a 39.5% increase. The gate piers would be raised proportionally so that they remain higher than the wall and frame the gate. Although what constitutes a disproportionate addition is not defined within the Framework, the proposed increase in height would, in my view, be minimal in relation to that of the existing structure. It would represent a modest addition to the existing wall and not be disproportionately large. On that basis I am satisfied that it would represent a proportionate addition to the existing structure. The proposal therefore meets the exception at Paragraph 149 c) of the Framework and is not inappropriate development in the Green Belt.
8. In respect of the second and third main issues, given the development would not be inappropriate development, there is no requirement for me to assess the impact of the development on the openness of the Green Belt or to assess whether there are any other considerations which would amount to very special circumstances. Therefore, in this regard the development would accord with the Framework and ACS Policy 3.
9. For the avoidance of doubt, even if I had concluded that the driveway wall was not classed as a 'building' for the purpose of determining this appeal, I consider that the proposed change in height would be so minimal that it would not cause either spatial or visual harm to the openness of the Green Belt.

Other Matters

10. The appeal site lies within the Linby Conservation Area and near to the Grade II* Listed Linby Church. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that in considering proposals for planning permission special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I have also had regard to the statutory duty set out in Section 66(1) of the Act, to have special regard to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which they possess.
11. I have considered the effect of the proposal against these statutory duties and note that no objections have been raised by the Council in relation to the effect on these designated assets. Having carried out my own assessment I also find that no harm would be caused to these assets.

Conditions

12. Planning permission is granted subject to the standard three year time limit condition. It is also necessary for the development to be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
13. I have attached a condition relating to facing materials and accepted the Council's suggested condition to agree walling details prior to the commencement of development to ensure that it respects the character and appearance of the Conservation Area.

Conclusion

14. For the reasons given above, having regard to the development plan as a whole and all other material considerations, including the Framework, I conclude that the appeal should be allowed.

G Bayliss

INSPECTOR