



Appeal Decision

Site visit made on 21 March 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd May 2023

Appeal Ref: APP/G2245/W/22/3293382

Land off Hever Road, Edenbridge, Sevenoaks, Kent TN8 5DJ

- 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 Sayed Hosseiney against the decision of Sevenoaks District Council.
 - The application Ref 21/02094/FUL, dated 28 June 2021, was refused by notice dated 23 August 2021.
 - The development proposed is erection of new 150cm high wooden post and rail fence along the perimeter of the site and the construction of way/vehicle access, 50mm self-binding gravel, permeable, to be used for maintenance purpose.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effects of the proposal on the character and appearance of the appeal site and surrounding area;
 - The effects of the proposal on highway safety; and
 - Whether any 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

Inappropriateness

3. The appeal site is within the Green Belt. Paragraph 149 of the Framework says that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, subject to certain exceptions. The fence would not fall within the list of exceptions at paragraph 149 which are regarded as not inappropriate.
4. Paragraph 150 of the Framework identifies certain other forms of development that are also not inappropriate in the Green Belt provided they preserve its

openness. Whilst the proposed gravel roadway and access would likely constitute an engineering operation in the context of paragraph 150, the proposed fence would not.

5. The proposal considered as a whole would therefore be inappropriate development within the Green Belt.

Openness

6. Paragraph 137 of the Framework describes the essential characteristics of Green Belt being its openness and permanence and states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.
7. Openness has both spatial and visual elements. The proposal would involve erection of a fence and installation of an area of hardstanding to enable vehicular access. The proposal would therefore have a relatively small footprint, and within the context of nearby trees, hedges, buildings, and vertical structures, the proposal would be relatively low in height. Nevertheless, the fence would be an obvious form of built development within a generally open landscape. Overall, I consider that the development would have a moderately harmful effect on openness.

Character and appearance

8. The appeal site adjoins the built area of Edenbridge. Rows of dwellings front onto Hever Road to the west of the site, and the area south of the site is principally commercial in function and character. The appeal site is an area of open grazing land which slopes downward to the river a short distance to the north. The site is not transitional in appearance, but rather forms a countryside edge. The erection of the proposed fence would therefore appear as development encroaching into the countryside and would have a harmful urbanising effect upon the appeal site's rural, green character.
9. Public right of way (PROW) SR612 diagonally crosses the north-eastern corner of the appeal site. PROW SR613 runs parallel to the site boundary immediately west of the appeal site, and both PROWs converge to the north. The surfaces of the PROWs are unmade, and their presence is not obvious within the landscape. There are no physical boundaries to distinguish the site from surrounding open land to the north and east. The PROWs therefore provide users with accessible views of the open landscape across the appeal site. The proposed fencing would enclose the appeal site and would harm the open character of the appeal site and its landscape setting to the detriment of users of the PROW.
10. The County Council's Public Right of Way Officer indicates that the proposed fencing would concentrate footfall which would require PROW SR612 to be surfaced with hardstanding. Whilst the appellant suggests this would be a benefit of the scheme which could be secured through condition, the hardstanding would be visually prominent within the landscape. Rather than serving as mitigation, the need for such a condition further illustrates the harmful urbanising effects of the proposal to the detriment of the character of the site and surrounding area and would not therefore be appropriate.
11. Whilst the gaps within the fencing would allow views to land beyond, the overall effect of the fence would be that of the visual enclosure of the site. In

addition, the fencing itself would intrude upon the open character of the landscape.

12. A dense hedgerow interspersed with mature trees runs along the front boundary of the appeal site and contributes positively to the verdant character of the area. The proposal would involve formation of a new vehicular access. However, the County Council's Highways Officer indicates extensive removal of vegetation or significant reduction in height would be required to provide adequate visibility for drivers of vehicles. The appellant suggests that the removal of vegetation would have a positive effect by allowing views of the open countryside from Hever Road. However, the dense vegetation provides separation and screens the commercial and industrial uses along this section of Hever Road. The loss of established vegetation would therefore adversely impact the character of the area. The appellant suggests that a condition could deal with this matter, but there is nothing before me to demonstrate that such harm could be avoided.
13. For the reasons set out above, the proposal would harm the character and appearance of the appeal site and surrounding area. The proposal would therefore conflict with Policy EN1 of the Sevenoaks Allocations and Development Management Plan which requires proposals to respect the character of the site and surrounding area and not result in the loss of green infrastructure that would have an unacceptable impact on the character of the area. In addition, the proposal would not comply with Core Strategy Policies SP1 and LO8 which together require proposals to respond to and conserve distinctive features that contribute to the special character of the landscape and its biodiversity.

Highway safety

14. There is no dispute between the parties in respect of the extent of the visibility splays required. The Highways Officer suggests the provision of visibility splays could be secured through planning condition and would involve the removal of obstructions and require the fence be set back from the site's edge. The appellant has expressed support for such a condition and indicates they were not afforded opportunity by the Council to negotiate a suitable planning condition or design a scheme to satisfy highway concerns.
15. However, it is clear from both the Decision Notice and Delegated Report that the Council had regard to the Highways Officer's comments, with each citing the harmful effects of creating visibility splays on the character and appearance of the area. Even if the appellant were able to design a scheme with satisfactory visibility without harm to character and appearance, this would not alleviate the proposal's harm to the Green Belt by reason of inappropriateness which I have identified above.
16. The appellant also suggests the Council's determination of a previous proposal was inconsistent as it did not cite highway safety as a reason for refusal. However, I have considered this appeal on the evidence before me, and for the reasons set out above, I conclude that it would harm highway safety. The proposal would therefore conflict with Policy EN1 which requires proposals to ensure satisfactory means of access for vehicles.

Other considerations

17. I understand through enclosing the appeal site, the proposal would provide increased security. This is largely a private benefit and therefore attracts little weight.
18. The Council has argued in its statement that the proposal would also harm biodiversity, however, no substantive evidence has been submitted in this respect, and as I am dismissing the appeal for other reasons, there is no need for me to consider this matter any further.

Planning Balance and Conclusion

19. The proposal would constitute inappropriate development in the Green Belt. The Framework requires that the harm by reason of inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. In addition, the proposal would harm openness. It would also harm the character and appearance of the area and harm highway safety.
20. The proposal would provide increased security to the appeal site. However, this does not clearly outweigh the totality of the substantial harm that arises as a result of the development's inappropriateness, its impact upon the openness of the green belt and the harm to the character and appearance of the area and to highway safety. The very special circumstances necessary to justify the proposal do not therefore exist. The proposal would therefore conflict with the Framework and the development plan as a whole. The harm to highway safety and the character and appearance of the area would be sufficient to dismiss the appeal regardless of the harm to the green belt. I therefore conclude that the appeal should be dismissed.

E Dade

INSPECTOR