



Appeal Decision

Site visit made on 13 November 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th December 2023

Appeal Ref: APP/W1525/W/23/3317281

Land east of Wyse Road, Highwood, Chelmsford, Easting 564379, Northing 204745, CM1 3SN

- 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 and Mrs Mitchell against the decision of Chelmsford City Council.
 - The application Ref 22/01959/FUL, dated 12 November 2022, was refused by notice dated 24 January 2023.
 - The development is brick wall and gate and a horse walker.
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Decision

1. The appeal is allowed and planning permission is granted for brick wall and gate and a horse walker at Land east of Wyse Road, Highwood, Chelmsford, Easting 564379, Northing 204745, CM1 3SN, in accordance with the terms of the application, Ref 22/01959/FUL, dated 12 November 2022, and the plans submitted with it.

Preliminary Matters

2. I have included the postcode stated on the Council's decision notice as this assists in identifying the location of the site.
3. The development is described on the application form as "*Retention of existing brick wall and gate and proposed erection of horse walker*". As 'retention of' is not an act of development, I have omitted this from the description. I have been advised that since the appeal was submitted, the Council has granted planning permission for the horse walker. This had been completed at the time of my site visit. I have therefore also omitted 'proposed erection of' from the description.

Main Issue

4. As planning permission has already been granted for the horse walker under a separate application, and I have no reason to reach a different view on this matter, I have focussed my decision on the wall and gate. Accordingly, the main issues are:
 - Whether the wall and gate would constitute 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;
 - The effect of the development on the character and appearance of the area; 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 development.

Reasons

Whether inappropriate development

5. The term 'building' is defined by section 336 of the Town and Country Planning Act 1990, as any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. Consequently, the wall and gate would constitute a new building.
6. Policy S11 of the Chelmsford Local Plan 2020 (the Local Plan) states that the openness and permanence of the Green Belt will be protected and opportunities for its beneficial use will be supported where consistent with the purposes of the Green Belt. Policy DM6 of the Local Plan and Paragraph 149 of the Framework list the types of building that will not be considered inappropriate in the Green Belt. Policy DM10 of the Local Plan relates to changes of use and engineering operations, and as such is not determinative to my consideration of the wall and gate.
7. As the development would not fall within any of the exceptions identified in the relevant local or national policies, it is inappropriate development, which is, by definition, harmful to the Green Belt.

Openness

8. Openness is an essential characteristic of the Green Belt. The Planning Practice Guidance states that openness can have both spatial and visual aspects, meaning that the visual impact of a development can be relevant, in addition to its size or volume.
9. It is evident from the planning history provided that the site has been used for equestrian purposes since at least 2006 and has developed further over recent years. It currently comprises a stable block, a riding arena equipped with jumps, a storage container, a temporary dwelling, access and hardstanding and a horse walker. The wall and gate form part of this developed site and do not result in the encroachment of development into the countryside.
10. Photographs submitted with the appeal show that the wall has replaced solid timber fence panels of a similar height. The former fencing was partially demolished when a piece of machinery was stolen from the site. I saw the remainder of the fencing that had been removed during my site visit. I am mindful that this previous fencing would have had a similar effect on the visual openness of the Green Belt. However, as I have not been advised of the planning status of the former fencing, how long it was present for, or of any details of the former gates, I afford this limited weight.
11. The brick wall and gate are set back from the highway and form a very small part of the overall site boundary, which otherwise comprises high trees and hedges. The maximum height of the wall and gate is approximately 2.2m and the overall length of the two sections of wall and the sliding gate between them is approximately 11.3m. The sliding gate is only visible when closed. When the gate is open the views through it are that of a developed site.

12. The development has a very limited effect on openness in spatial terms due to its modest scale. Being viewed in the context of a developed site and being set back from the highway and positioned in a relatively small gap in the hedgerow, the wall and gate are also not visually intrusive.
13. The wall and gate have resulted in a small reduction to the openness of the Green Belt in spatial and visual terms, which results in some limited harm. However, as one of the fundamental aims of Green Belt policy is to keep land permanently open, I afford this harm substantial weight.

Character and appearance

14. The site is in a rural location, surrounded by agricultural fields and sporadic trees and hedgerows. Within this context the brick wall and solid gate appear somewhat urban. However, the height of the wall and gate, together with their design, materials and solid appearance, which do not allow views through the site, are reflective of their purpose in terms of safety and security and perform an important and necessary function associated with the use of the site.
15. The evergreen hedging that has been planted along the front of the wall already exceeds the height of it, and hides most of it. The large sliding gate, despite its steel frame, is of high quality and is designed to appear as a pair of timber vertically boarded central opening gates. Due to the wall and gate being set back from the road, with high trees and hedges to either side, they are only visible in views from directly in front of them and as such do not appear excessively prominent or harmful.
16. Consequently, the development accords with Policy DM23 of the Local Plan and paragraph 134 of the Framework, which require development to be of high-quality design that respects the character and appearance of the area.

Other considerations

17. The site has an established use for keeping, breeding and rehabilitating show jumping horses. I saw four horses on the site at the time of my visit, including a foal. The wall and gate are required as a consequence of the lawful business use and development of the site and serve a practical purpose in terms of keeping it safe and secure.
18. I have been provided with some evidence of a theft from the site, via the removal of a former fence panel. Whilst, it is unclear when this took place and whether it was prior to the appellants living on the site, the brick wall and solid gates reduce views into the site and strengthen its security, which I noted has been further enhanced by the installation of a security camera on the wall. As such I afford this benefit to the business significant weight.
19. The show jumping horses kept on site are able to jump large fences and barriers. The large exercise area/riding arena on the site, which is not enclosed by fencing, is close to the site entrance. As horses are less prone to jumping objects that they cannot see over or beyond, a high gate of solid construction across the entrance is highly beneficial to the safety of the horses in terms of deterring them from jumping and preventing them from escaping onto the public highway. I afford this benefit significant weight.
20. The appellant also argues that a wall and gate set back from the highway and not exceeding 2m in height could be constructed under permitted development

rights and would have a very similar affect on the Green Belt. However, as the use of the site is subject to a planning condition that prevents any structures or enclosures from being placed on the site without planning permission, I afford this no weight.

Balance and Conclusion

21. Whilst the development is not harmful to the character and appearance of the area, it is harmful to the Green Belt by way of inappropriateness and the limited reduction in openness it results in, which I afford substantial weight. The Framework states that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
22. In the circumstances of this particular case, I find that the security and safety benefits identified above, clearly outweigh the Green Belt harm I have identified. Consequently, the very special circumstances necessary to justify the development exist.
23. As the development has already been carried out, it is not necessary to impose the standard conditions and no other conditions have been suggested to me.
24. For the above reasons, the appeal is allowed.

R Bartlett

INSPECTOR