



Appeal Decision

Site visit made on 16 January 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2024

Appeal Ref: APP/F0114/D/23/3320805

Wyndrush, Tilley Lane, Farmborough, Bath BA2 0BE

- 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 Emma & Scott King against the decision of Bath & North East Somerset Council.
 - The application Ref 22/04550/FUL, dated 9 November 2022, was refused by notice dated 6 April 2023.
 - The development proposed is described on the application form as, "retention of front boundary wall and gates".
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Decision

1. The appeal is allowed and planning permission is granted for front boundary wall and gates at Wyndrush, Tilley Lane, Farmborough, Bath, BA2 0BE, in accordance with the terms of the application, Ref 22/04550/FUL, dated 9 November 2022, and subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (1:1250), Site Plan (Drawing No. E721-SK-001C), Boundary Wall (Drawing No. E721-SK-002A).

Preliminary Matters

2. The proposed development is already in place and I shall deal with the appeal on this basis. However, 'retention' is not an act of development, and this has been reflected in the formal decision, above.

Main Issue

3. The main issue is whether the development is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

Reasons

4. The Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There is a closed list of exceptions to this in paragraph 154 of the Framework, one of which relates to 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 (paragraph 154 c)). Similarly, Policy GB3 of the Local Plan Partial Update¹ (Local Plan) provides that proposals to extend or alter a building in the Green Belt will only be permitted provided they would not

¹ Bath and North East Somerset Local Plan: Core Strategy and Placemaking Plan incorporating the Local Plan Partial Update - Volume 1: District-wide Strategy and Policies (adopted 2023)

- represent a disproportionate addition over and above the size of the original building.
5. The dwelling known as Wyndrush has previously been extended, following the demolition of outbuildings, but it has not been argued that this previous extension has resulted in Wyndrush significantly increasing in size over-and-above the size of the original building.
 6. Section 336 of the Town and Country Planning Act 1990 (as amended) defines 'building' as including any structure or erection, and accordingly this definition encompasses boundary walls and gates. Although the front boundary wall and gates are detached from Wyndrush, paragraph 154 c) of the Framework is not confined to physically attached structures. Due to their close proximity to Wyndrush, and their commonplace residential function in demarking a separation between the public and the private realm, the wall and gates can be considered to be an extension of Wyndrush.
 7. Wyndrush is a contemporarily-styled detached dwelling, with an elongated footprint. Taking account of the maximum height of the wall (which is approximately 2 metres), and the total width and depth of the wall and gates, their overall size is reasonably modest. As such, taking account of the previous extension of Wyndrush, referred to above, the wall and gates do not comprise disproportionate additions over-and-above the size of the original building, in the terms of paragraph 154 c).
 8. I therefore find that the wall and gates do not constitute inappropriate development in the Green Belt. No conflict arises with Policy GB3 of the Local Plan or the Framework in this respect, the relevant parts of which have been summarised above. It follows that very special circumstances, referred to at paragraph 153 of the Framework, are not involved in this case.

Other Matters

9. Any impact on the openness of the Green Belt and the purposes of including land within it are implicitly taken into account in the exception to inappropriate development found at paragraph 154 c) of the Framework. Accordingly, these matters do not fall to be considered in this case.
10. It is common ground between the main parties that the wall and gates have an acceptable effect on the character and appearance of the area, and I concur with this assessment. Hence, no conflict arises with Policy GB1 of the Local Plan which provides that, amongst other things, development within the Green Belt should not prejudice but seek to enhance the visual amenities of the Green Belt by reason of its siting, design or materials used for its construction.
11. The Council considered that, whilst the access is substandard and has prejudiced highway safety, given the narrow nature of Tilley Lane and the low volume of traffic, any harm to highway safety is not of such a degree so as to constitute a reason for refusal. I have no substantive evidence to indicate otherwise. As such, no conflict arises with paragraph 115 of the Framework which provides that, amongst other things, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Conditions

12. I have had regard to the conditions suggested by the Council. I have considered them against the advice on conditions set out in the Framework and the Planning Practice Guidance. As the development has been carried out I have omitted the standard time limit and materials conditions, as these are no longer necessary. A condition is necessary specifying the approved plans, to provide certainty with respect to the development applied for (condition 1).

Conclusion

13. Following my findings on the main issue above, no conflict is found with Policy CP8 of the Core Strategy² which provides that, amongst other things, the openness of the Green Belt will be protected from inappropriate development in accordance with national planning policy.
14. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

Alexander O'Doherty

INSPECTOR

² Bath and North East Somerset Core Strategy (Part 1 of the Local Plan) (adopted 2014)