



Appeal Decision

Site visit made on 15 January 2024

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 February 2024

Appeal Ref: APP/P2935/W/23/3333190

**Oakwood Hall, C257 Holeyn Hall Road to Hexham Road, Wylam,
Northumberland NE41 8BH**

- 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 Peter McGirr against the decision of Northumberland County Council.
 - The application Ref 23/02038/FUL, dated 31 May 2023, was refused by notice dated 19 October 2023.
 - The development proposed is the replacement of fence to south of driveway.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Both the appellant and the Council took the view that the proposed fence would constitute an "engineering operation" with the implications that the National Planning Policy Framework (the Framework) classes such a form of development as not inappropriate in the Green Belt subject to caveats¹. However, notwithstanding the limits that a dictionary definition of a "building" may suggest, the Town and Country Planning Act 1990 (the TCPA) provides the broader definition² that a "*building*" includes any structure or erection....
3. Bearing in mind the TCPA's definition, it is clear that the development of the fence proposed would be a structure or erection and therefore a building for the purposes of national and local Green Belt Policy. The main parties' views were sought on this matter and I have taken their responses into account in reaching my decision, however arguments that the proposal should be considered as an engineering operation in this case are not persuasive.

Main Issues

4. The main issues raised by this appeal are:
 - i) whether or not the proposal would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies;
 - ii) the effect the proposal would have on Green Belt openness;
 - iii) the effect the proposal would have on the significance of the grade II listed Oakwood Hall;

¹ Paragraph 155.

² At section 336.

- iv) the effect the proposal would have on ecology, and;
- v) if it would be inappropriate development, 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

5. The proposed fence would run along one side of the straight alignment of the tree-lined South West Drive (the Drive) to Oakwood Hall, extending from the Holeyn Hall Road entrance to the Oakwood Burn, not far from the Hall. It would replace an existing post and wire fence that runs alongside open fields, albeit the boundary is presently marked with temporary 'Heras' type mesh fencing panels. The fence would consist of closely spaced vertical timber boards on timber posts and its top would be 1.9m above the ground. It would be in the region of 310m long according to the appellant's figures.

Whether inappropriate

6. The Framework regards the construction of new buildings within Green Belt as inappropriate and Northumberland Local Plan³ (LP) Policy STP 8 does not support such development except in very special circumstances. In light of the preliminary matter above, the fence would be a building rather than an engineering operation, and therefore inappropriate development. Consequently, it would not fall into any of the categories of development that Framework paragraph 155 states are not inappropriate. Nor would the proposal fall into any of Framework paragraph 154's list of exceptions.
7. It is therefore not necessary to consider the development's effect on openness nor whether it would conflict with Green Belt purposes, in order to determine whether it would be inappropriate development, albeit its effect on openness is a consideration in the acceptability of the proposal.

Openness

8. The Drive runs through the open countryside within a wooded part of the estate, with the substantive area of trees to one side and a row of trees to the other adjacent to the appeal site, with open fields beyond. The site and surroundings display the characteristics and appearance of much of the countryside which surrounds it. It has no buildings or structures on it apart from the low post and wire fence presently marking the boundary. It forms part of an undeveloped area, with only the nearby low wall topped by railings which forms an entrance feature to the estate. The site and its environs consequently have a high degree of openness. Although the site runs alongside a relatively closely wooded part of the Hall estate which would provide a verdant backdrop to the fence when seen from across the adjacent field, this does not affect the openness of the site which is not solely reliant on visual aspects. Given its arrangement and height the post and wire fence has only a limited effect on this openness.
9. The erection of a long stretch of timber boarded fence would be a continuous feature with a more or less solid appearance due to the close spacing of the boards. This would create a very definite enclosure and boundary at a notable height above ground. This would substantially erode, and consequently

³ Northumberland Local Plan 2016-2036 (2022).

considerably harm, the openness which currently exists in both spatial and visual terms.

10. On the south side of the present fence line there is a strip of vegetation alongside the field with undergrowth and bushes in. During parts of the year when they are in leaf and vegetation growing, this would go some way to breaking up or in parts screening the proposed fence from the south. Along with the overhanging crowns of the nearest trees, this would reduce the fence's visual prominence. However, this would not materially affect its effect on the openness of the area in spatial terms and in any event the fence would remain prominent from along the Drive side, and from elsewhere during winter months.
11. The Council do not consider that the development would conflict with the Framework's Green Belt purposes, however as the proposal would consist of development that would encroach in the countryside it would conflict with that purpose set out in Framework paragraph 143 as well as criterion b. of LP Policy STP 7.
12. Therefore, even if the proposal were considered to be a form of development listed under Framework paragraph 155, the failure to protect openness would render it inappropriate development in any event.

Listed building

13. Oakwood Hall is a country house of three main distinct phases of building set within grounds and served by two driveways through the surrounding countryside, the south west of which runs alongside the appeal site. The listed building derives considerable significance from its ages, history, its architecture and architectural features, its materials and its overall composition. Its significance also relies to a degree on its grounds and surrounding landscape in which it is set.
14. The appellant's Revised Heritage Statement notes its evidential value as including the immediate designed landscape setting of the house remaining largely intact, along with much of the wider former parkland with the southern view retaining a parkland feel and with planting along the Drive remaining. It goes on to note the aesthetic value of this arrangement and of that surviving historic planting along the Drive, as well as in the adjacent dene and in the western part of the former pleasure grounds, which frame the view out over the Tyne valley, and the view back to the house from the south. The Drive, with its formal entrance features and straight alignment for much of its length terminating in a sinuous carriage sweep as it approaches the Hall, creates an attractive and dramatic arrival experience. Part of its character is the route running through a wooded area but also views through the trees over open countryside to the south when vegetation is low or not in leaf.
15. Despite the narrow gaps between the boards the fence would have a solid appearance and its height and design would have a mundane, suburban character and not a type of enclosure usually associated with C18 and C19 houses and their country estates. It would significantly alter the experience of approaching or leaving the house along the Drive by adding a considerable enclosure in a prominent form, and in materials that would harmfully contrast with those of the house and of the metal railings set on a low stone wall that mark the entrance of the Drive.

16. Given that an element of the listed building's special interest, and hence significance, relies on the Drive and surrounding landscape, this would have a harmful effect on that interest and significance.
17. The Hall itself is in an elevated and set back situation in relation to the main alignment of the Drive before the carriage sweep. This relationship means that there would be only very limited intervisibility between the house itself and the part of the fence closest to it and from longer distance views. Although the fence would be prominent, the house itself would be effectively screened from views from Holeyn Hall Road. From public vantage points at least, the fence and Hall would be unlikely to be seen together. However, the significance that the Drive and its environs contribute to the Hall is not dependent on a visual relationship.
18. Although not specified, the treatment or staining of the fence, and for part of the year at least adjoining vegetation, would assist in assimilating the fence into the landscape when viewed from the south. This would go some way to limit its harmful effect but would do little to reduce its impact from the Drive itself where it would have a notably more intrusive effect than the simple post and wire fence it would replace, and would not preserve the listed building or its setting.
19. As required by the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCAA), I have had special regard to the desirability of preserving the listed building or its setting. In so doing, and in giving great weight to the designated heritage asset's conservation, the development would fail to preserve these attributes and would consequently harm its special interest and significance.
20. This harm would not extend to the physical fabric of the building itself and, considering the mitigating factors, would be moderate. This harm to significance would be less than substantial in the terms of the Framework. These are circumstances where LP Policy ENV7 and the Framework require such harm to be balanced against any public benefits of the proposal.
21. Whilst the repairs to the listed building the appellant is carrying out would no doubt result in public benefits through safeguarding the listed building and ensuring its long-term use, there is no substantive evidence that the fence itself carries any public benefits. Nor is there any evidence that the fence is related to the repair programme at the Hall, or that it would be essential in delivering it.
22. Any privacy offered by the fence would be a purely private benefit for the occupiers or users of the Hall and its grounds, as would security of the home, its contents or occupiers when repair work is complete. It could presumably contribute, along with other enclosures, to help prevent unauthorised access and therefore vandalism. Prevention of damage to the listed building has the potential to be a public benefit, however there is no substantive evidence that this would necessarily be a requirement following completion of building works nor, even if it was, that an enclosure of the proposed specification would be the only way to achieve it. The heritage harm carries considerable importance and weight, and it has not been convincingly demonstrated that there would be public benefits that would outweigh this harm.

23. The development would be contrary to LP Policies QOP1, ENV1 and ENV7. Together, and amongst other criteria, these require development to be visually attractive and incorporate high quality materials, respect and enhance the historic environment, make a positive contribution to local character and distinctiveness, and that great weight is given to conserving designated heritage assets.

Ecology

24. In an attempt to address the Council's reason for refusal that there was an absence of one, the appellants have provided an Ecological Assessment (EA). On the basis of the information before me, the likely effects of the fence would be disturbance during construction, with potential damage to tree roots from excavations at regular intervals and in a straight line, and thus the potential to affect the health of trees which provide habitats. There would also be the potential barrier effect of the fence when in situ. The EA and the Council identify the broadleaved woodland nature of the site's surroundings as being a Habitat of Principal Importance and that bats known to be present at the Hall may also be using tree roosts adjacent to the appeal site.
25. Whilst the EA evaluates the implications of a number of development proposals on the estate, it omits any specific reference to the appeal proposal in its analysis of effects and implications and provides no explanation for this approach.
26. In the absence of an assessment, it is therefore not certain whether the 10cm gap between the panels and ground would be sufficient to avoid disrupting habitat connectivity, particularly for larger mammals which might include protected species.
27. The details show the fence posts set within concrete in pits over 600mm deep and that the panels would be regularly spaced. These would be in the vicinity of the row of trees nearby and the likely regularity of spacing of the posts could make it challenging to avoid disturbance to roots. Should such excavations or works harm the trees and their health, this in turn has the potential to affect habitats for bats which are present on the estate and given the woodland nature of the site's environs likely to be present on and adjacent to the site.
28. Whilst the size of the woodland that would remain unaffected and the uncertainty that any root damage might definitely lead to the loss of trees may be a limiting factor of the extent of any harm that may arise, there is no counter evidence in the EA. Therefore, whilst the EA concludes that there would be no impact on bats as no trees were proposed to be felled, this does not appear to have considered the consequential potential implications of the specification of the proposal.
29. It cannot be certain, therefore, that protected species and important habitats would not be adversely affected by the development, nor if they were, that this could be satisfactorily avoided or mitigated. There is the potential for the specification of the fence and any gaps beneath it to be controlled by a condition. However, based on the evidence before me, attempting to secure the location of post holes by way of a condition to avoid or minimise damage to tree roots would be unlikely to meet the test of reasonableness given that the proposed fence configuration would leave little opportunity of alteration should particular locations prove unsuitable upon further investigation.

30. The development would be contrary to LP Policies ENV1's and ENV2's natural environment and biodiversity conservation requirements.

Other considerations

31. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt. LP Policy STP 8 states that inappropriate development should not be approved except in very special circumstances. The development would considerably harm the openness of the Green Belt. There would also be harm to the significance of the listed building and by way of a failure to demonstrate that important habitats and protected species would not be adversely affected.
32. The appellant is clearly engaged in a significant repair programme of the Hall and its environs. The fence would deliver privacy from the south for the Drive and the area of woodland adjacent and provide a more secure boundary in that location than the existing fence. However, the fence would not be part of the repair programme, and the provision of privacy and security can only carry very limited weight.
33. The Framework requires that substantial weight is given to Green Belt harm. I have found that other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. As a result, the development would conflict with LP Policy STP 8.

Conclusion

34. For the above reasons the proposal would conflict with the development plan taken as a whole, with the LBCAA and with the Framework. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR