



Appeal Decisions

Site visit made on 29 February 2024

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 April 2024

Appeal Ref: APP/G1630/W/23/3320446

Oaklands, Gloucester Road, Staverton, Cheltenham GL51 0TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Shaun Dean Gorman against Tewkesbury Borough Council.
 - The application Ref 22/01085/FUL, is dated 13 October 2022.
 - The development proposed is provision of an agricultural building with a reduced area of hardstanding and re-surfaced access track (including part retention of works) and removal of 2 small brick buildings, removal of all external lighting and CCTV equipment and removal of 2.2 metre close boarded fencing that encloses the existing yard to be replaced with new 1.2m high post and rail fencing.
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Appeal Ref: APP/G1630/W/23/3320447

Oaklands, Gloucester Road, Staverton, Cheltenham GL51 0TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Shaun Dean Gorman against Tewkesbury Borough Council.
 - The application Ref 22/01086/FUL, is dated 13 October 2022.
 - The development proposed is erection of walling, piers, gates, railings and fencing along the site frontage with the B4063, reduced from 2.2m to a height of 1.5m (1.2m walls and 0.3m railing above (including part retention of works)).
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Appeal Ref: APP/G1630/W/23/3320448

Oaklands, Gloucester Road, Staverton, Cheltenham GL51 0TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Shaun Dean Gorman against Tewkesbury Borough Council.
 - The application Ref 22/01087/FUL, is dated 12 October 2022.
 - The development proposed is erection of brick walling, railings, close boarded fencing and gates around the perimeter edge of the residential property known as Oaklands, reduced from 2.2m to maximum height of 1.5m (1.2m walling and 0.3m railings) and removal of all external lighting within the residential curtilage of the property (including part retention of works).
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Decision

1. The appeals are dismissed.

Application for Costs

2. An application for costs was made by Mr Shaun Dean Gorman against Tewkesbury Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The site currently contains unauthorised development subject to enforcement action that includes 2.2m high boundary walls, piers, fences, gates and a compound style building. The applications seek to rectify the development.
4. Following the submission of the appeal against the failure of the Council to give notice within the prescribed period, the Council has outlined the position it would have taken on the applications if it had been in a position to make the decisions. The appellant has had the opportunity to comment on this position and therefore has not been prejudiced. I have determined the appeals on this basis.

Main Issues

5. The main issues are:
 - Whether the agricultural building and boundary treatments are inappropriate development for the purposes of the development plan policy and the National Planning Policy Framework (NPPF).
 - The effect of the agricultural building and boundary treatments on the openness of the Green Belt.
 - The effect on the character and appearance of the area as a result of the boundary treatments fronting onto the B4063 and around the residential property, Oaklands.
 - If the agricultural building or boundary treatments are inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate Development

6. The appeal site is located on the northern side of the B4063. While opposite the site there are commercial uses, the northern side of the road within which the site is located is rural in character.
7. The appeal site is located in open countryside in the Green Belt. Paragraph 152 of the NPPF states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Building

8. Paragraph 154 of the NPPF identifies that the construction of new buildings is inappropriate within the Green Belt subject to a number of exceptions. Paragraph 154a) identifies that buildings for agriculture are not inappropriate in the Green Belt.

9. The appellant says the building, area of hardstanding and track would be used for agriculture but there is little before me with regards the details of how it would be used for this purpose. Reference has been made to a plan to increase the appellant's stock of sheep but that this cannot be done until there is a building in place to house the stock in poor weather and to store hay and agricultural machinery. There is an absence of information before me about where sheep are currently being housed or where hay or agricultural equipment are stored. There is also a lack of information on the detail of what purpose the equipment would serve.
10. The appellant says that the fact that the land holding covers 10 acres justifies the building. However, this in itself does not provide justification. I have before me a letter referencing an agricultural holding number. However, these are required by anyone keeping livestock, including pets or for a hobby. Documentation referring to the movement of sheep is from 2019 and so is somewhat dated.
11. The appellant says the Council granted planning permission for an agricultural building on the site in 2017 which they suggest indicates the Council's acceptance of the requirement for an agricultural use. I have limited information about that permission and the justification presented at the time. I understand the planning permission for that development has expired and my assessment is based on the information currently before me.
12. The appellant referenced another application determined by the Council in which information submitted in that case was deemed acceptable as being 'reasonably necessary for agriculture and has been designed for the sole purpose of agriculture'. I note the officer report in that case refers to a 'detailed statement setting out the requirements for the building' submitted by the applicant. I have not seen that statement and do not have such a statement for the case before me.
13. There is a lack of robust information to demonstrate that the proposed building would be for agriculture. As it has not been sufficiently demonstrated that the building is for agriculture it would be inappropriate development.

Boundary Treatment

14. The term 'building' includes any structure or erection and so walls and fences can reasonably be considered as 'buildings' for the purposes of the NPPF. Fences and walls do not fall within any of the exceptions in paragraph 154-155 of the NPPF and therefore they are inappropriate development which is by definition harmful to the Green Belt.

Conclusion on Inappropriate Development

15. I conclude that the developments would be inappropriate development. The developments would conflict with Policy GRB4 of the Tewkesbury Borough Local Plan 2011-2031 (Local Plan), Policy SD5 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (Joint Core Strategy) and the NPPF. Amongst other things, these policies seek to avoid inappropriate development in the Green Belt. In addition to the consideration of Green Belt matters, it would also conflict with the part of Policy AGR1 of the Local Plan which requires new agricultural development to be reasonably necessary for the purposes of agriculture.

Openness

16. Paragraph 142 of the NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence. Openness has spatial and visual aspects. As I have found that the proposed development would be inappropriate the impact on openness needs to be considered.
17. The building would be located in the corner of a field, set back from the road behind existing hedgerow. Whilst the hedgerow would provide some screening it would still be visible in some views in the surrounding area. The screening and reduced visibility of the building would not mitigate against the spatial loss of openness.
18. Some of the proposed changes would lead to an improvement on the site such as the removal of the 2 smaller existing buildings and the erection of the proposed post and rail fencing. The appearance and proposed materials of the building would also be more appropriate than the unauthorised development currently on the site. However, as the existing building does not have planning permission, the proposed development would lead to a loss of spatial and visual openness. The hardstanding and access road would also reduce openness, although to a lesser extent than the existing unauthorised development.
19. The proposed boundary treatments fronting the B4063 and around Oaklands would also lead to a loss of openness. The appellant has identified that the boundary treatments would be no higher than those that existed in 2017 and would be a betterment as the boundary treatment fronting the main road would be setback behind a one metre area of grass verge. However, the 2017 boundary treatment is no longer in place and the current boundary treatments are unauthorised and so this limits the weight I attach to the comparisons the appellant makes.
20. Taking all the factors into account, I find that the proposed building, access track, hardstanding and proposed boundary treatments would reduce the openness of the Green Belt. The development would result in a loss of openness and would be harmful. It would therefore conflict with local and national policy to preserve the openness of the Green Belt.

Character and Appearance

21. The appeal site is in an area that is relatively rural in character. Elements of the proposals would be acceptable in this setting such as the form of the post and rail fencing around part of the site. There would also be improvements to the appearance of the building and consequently it would be more appropriate to the rural location than the utilitarian appearance of the unauthorised compound building.
22. However, the walls, piers, gates, railings and fencing along the site frontage with the B4063 and around the perimeter edge of the residential property would have an urbanising effect that would be out of keeping with the surroundings. The proposed reduction in height would be insufficient to overcome the harm caused by the appearance and choice of materials.

23. The development would harm the character and appearance of the area. As such it would conflict with Policies LAN2 and RES10 of the Local Plan and Policies SD4 and SD6 of the Joint Core Strategy. Amongst other things, these policies require new development to be appropriate to, integrate with and respect the existing setting and character and appearance of the surroundings.

Other Considerations

24. Paragraph 153 of the NPPF states that substantial weight should be given to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
25. The appellant has cited a number of reasons that they consider constitute very special circumstances. Whilst a boundary treatment may be necessary to ensure security and privacy for the residential dwelling, there is little before me to demonstrate that it has to take the form proposed. There is limited reasoning to explain the appellant's view that post and rail fencing would be inadequate. Similarly, whilst the appellant says the boundary treatment is needed to limit the noise emanating from the employment use opposite there is little information to substantiate this.
26. The appellant has made reference to another appeal where the inspector concluded that there were very special circumstances to allow the inappropriate boundary treatments. However, on the information before me I consider that case to be different. The location of the development was in a residential context with 2 other properties either side of the site and where existing views were already severely restricted. The fence was constructed of a dark green metal mesh and views through it were not significantly impeded. The colour of the fence blended with planting inside the line of the fence. I therefore give this case limited weight.
27. Reference has been made to a fallback position with the appellant saying that they could reinstate a boundary treatment along the B4063 in an area outside the residential curtilage that is not subject to the removed permitted development restriction. Even if this were to occur the height of the boundary treatment would be lower than that proposed and therefore the impact would not be as great. As such I give the fallback position moderate weight.
28. The proposals comprise benefits that include the removal of lighting and buildings and a reduced yard area. However, these benefits do not outweigh the harm identified. Similarly, the acceptability of the scheme in terms of highways, drainage and residential amenity do not outweigh the harms identified.

Planning Balance and Conclusion

29. The development would constitute inappropriate development in the Green Belt which by definition is harmful. The NPPF requires that substantial weight be attributed to the harm to the Green Belt. For the appeal to succeed the combined weight of other considerations must clearly outweigh the harm caused. The other considerations do not clearly outweigh the totality of the harm caused and so very special circumstances to justify the development do not exist.

30. For the reasons given, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR