



Appeal Decision

Site visit made on 20 February 2024

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2024

Appeal Ref: APP/N4720/D/23/3334879

5 Acacia Park Drive, Rawdon, Bradford BD10 0PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Anthony William Appleton and Mrs Sally Appleton against the decision of Leeds City Council.
 - The application Ref is 23/05337/FU.
 - The development proposed is described as construction of retaining wall, alterations to driveway/ garden, and installation of gates (retrospective).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The development is already in place, so I am considering the proposal retrospectively.
3. The appellants suggest that the new gates may be permitted development. However, I am required to consider the scheme as a whole and this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellants to apply to have that matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.
4. On 19 December 2023, the Government published a revised National Planning Policy Framework (the Framework). Other than a change to the relevant paragraph numbers, the revised Framework does not materially alter the national policy approach in respect of the main issues raised in this appeal and I have had regard to the latest version in reaching my Decision.

Main Issues

5. As the appeal site is within the Green Belt, the main issues are:
 - I. Whether the proposal is inappropriate development in the Green Belt;
 - II. Whether the development has preserved or enhanced the character or appearance of the Rawdon-Cragg Wood Conservation Area and surrounding landscape; and
 - III. If the proposal is inappropriate development, whether 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 the proposal.

Reasons

Whether inappropriate development

6. The Government attaches great importance to Green Belts. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. The Framework lists the types of development that may not be inappropriate in the Green Belt. The list of exceptions in Saved Policy N33 of the Leeds City Council Unitary Development Plan (Review 2006) (the UDP) is less comprehensive than the Framework. Therefore, for the purposes of determining whether the proposal is inappropriate development, I have proceeded on the basis of the approach set out in the Framework.
8. I am satisfied that in relation to this appeal, the development in respect of the retaining wall and hard surfacing elements constitute engineering operations. Under paragraph 155 b) of the Framework, engineering operations are not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
9. The Council has not identified any conflict with the Framework's Green Belt purposes, and I have no reason to disagree. The effect on openness will therefore determine whether these works are inappropriate development in the Green Belt. This is a matter of planning judgement.
10. From the available evidence, this part of the site previously contained a horseshoe shaped drive around a central flowerbed with open entrances at each end. This indicates to me that the frontage along this part of the site has previously been relatively open with limited built development.
11. The development carried out has brought about a significant change along this part of the site frontage. Even if I were to accept that the new retaining wall has not exceeded the highest point of the land behind it, it is a continuous feature with a solid appearance and has the effect of creating a very definite boundary at a notable height above the level of the lane. It also facilitates the parking of vehicles in an elevated and more prominent position closer to the site boundary, adding to the visual impact. In my judgement, the development has eroded, and consequently harmed, the openness of the area in both spatial and visual terms, albeit to a minor degree.
12. While the introduction of planting in front and above the retaining wall may, in time, go some way to breaking up or in part screening the development and parking, I am not convinced that it would entirely remove the visual impact. Nor would it reduce the presence of the development in the spatial dimension. Moreover, landscaping is not permanent, and can die, or be removed, so should not be relied on to hide the development.
13. Assessed in both a spatial and visual manner, I find that the development in respect of the retaining wall and hard surfacing has not preserved the openness of the Green Belt. As such, it does not meet the exception in paragraph 155 b) of the Framework. It therefore constitutes inappropriate development in the Green Belt when judged against the Framework.

14. In reaching this view, I have had regard to various appeal decisions brought to my attention. However, the effect on openness in any particular case will be specific to the proposal and its own site context. Accordingly, those decisions have little bearing on my assessment.
15. In terms of the new gates at the driveway entrance. The Town and Country Planning Act 1990 defines a building as including any structure or erection. I am satisfied that in relation to this appeal, the gates should be considered as a building.
16. The gates are not a type of building which fall under any of the exceptions in paragraphs 154 and 155 of the Framework. Thus, this element of the scheme is also inappropriate development in the Green Belt. While the gates are not especially bulky in form, they are visually prominent and contribute to an enclosing effect where previously there was none. This has caused a minor reduction of openness in its own right.
17. In conclusion on this issue, I find that the proposal is inappropriate development in the Green Belt and openness has not been preserved. Any harm to the Green Belt is a matter of substantial weight.

Conservation Area and landscape

18. The appeal site lies within the Rawdon-Cragg Wood Conservation Area (CA). It is also identified as being within a Special Landscape Area (SLA).
19. This part of the CA is characterised by 20th century detached dwellings set within spacious, verdant plots in an attractive semi-rural setting. While some render is present, the predominant building material is stone, with roadside boundaries typically formed by low stone walls and hedges. Hence, for the purposes of this appeal, I consider that the CA derives some of its special interest and significance from its spacious semi-rural character, traditional building materials, and complementary relationship with the surrounding landscape.
20. The appeal property is situated towards the end of Acacia Park Drive, off a shared lane with one other dwelling. The plot is elevated above the level of the lane and benefits from open views over the adjacent countryside to the south. The CA Appraisal and Management Plan (2012) notes that the development around Acacia Park Drive reflects the ethos of the area as detached houses in relatively sizable plots. I concur, and consider that the appeal site contributes positively to the significance of the CA.
21. I have already set out in relation to the Green Belt that the introduction of the retaining wall and gates along the site frontage has harmed the open character of the area. Furthermore, due to its height relative to the lane and cement render finish, the retaining wall appears dominant and stands out as noticeably different and incongruous in its setting. While the pre-existing retaining wall to the west of the access is finished in similar materials, it is not representative of the prevailing character of front boundary walls in the area, and in any event, it is lower in height and less dominant than the proposal.
22. Again, landscaping should be used to complement development, not hide it because it is poor. I have noted the various amendments which have been suggested by the appellants, including facing part of the return wall in stone, adding decorative stone buttresses, and raising the height of the planting bed

in front of the retaining wall. However, no details are provided and I consider that such changes would go beyond the scope of matters which can be reasonably controlled by planning conditions. Moreover, the appeal process should not be used to evolve a scheme. If the appellants think that amending their proposals would overcome the local planning authority's reasons for refusal, then a fresh application should be made in the first instance.

23. While I consider the design and materials of the gates and block paving to be acceptable, this does not lead me to a different conclusion on the scheme as a whole.
24. Overall, I find that the development has an adverse visual effect on the site and its surroundings, and as a consequence has failed to preserve or enhance the character or appearance of the CA as a whole. For the same reasons, there is some harm to the scenic quality of this part of the SLA, albeit this is localised and very limited in degree.
25. The harm to the CA can be classed as less than substantial in the terms of the Framework. Nevertheless, this is a matter of considerable importance and weight. The appellant points to the safety and security benefits of the development and I have no reason to doubt that the proposal is an improvement in these regards. Even so, such benefits are small in scale and mostly private in nature. It is also likely that less harmful options could achieve similar objectives. I therefore give limited weight to these matters. Accordingly, the benefits of the proposal are not sufficient to outweigh the harm to the CA.
26. Thus, the proposal fails to satisfy the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990; and parts 12, 15, and 16 of the Framework with regards to achieving good design, and conserving and enhancing the natural and historic environment.
27. There is also conflict with requirements of Policies P10, P11, and P12 of the Leeds Core Strategy (Selective Review 2019); and to a lesser extent saved Policies GP5 and N19 of the UDP which are broadly applicable. Collectively, these require new development, including boundary treatment, to be well designed, appropriate to its context, sensitive to the historic environment and scenic quality of the landscape, and with the intention of contributing positively to place making generally.
28. However, I note that Policy N37 of the UDP seeks to guard against serious harm to the SLA. As the level of landscape harm I have identified would fall below this, I do not identify conflict with this particular Policy.

Other considerations

29. As noted above, the safety and security benefits of the proposal carry limited weight in favour of the scheme.
30. Even if there is a permitted development fallback for the gates, this would not alter the harm I have identified in relation to other aspects of the proposal. I therefore attach little weight to this matter.

Other Matters

31. Buildings at Acacia Farm are grade II listed for their historic and architectural interest. I have a statutory duty to consider the effect of the proposal on these

heritage assets. However, having regard to the minor scale of the development, intervening distance, and difference in ground levels, I am satisfied that the setting and significance of the listed buildings have not been adversely affected, notwithstanding the harm I have found in other respects.

32. The support from interested parties has been noted, but for the reasons given above, I have found that the proposal is harmful.

Green Belt Balance

33. The proposal constitutes inappropriate development in the Green Belt and openness has not been preserved. Having regard to the Framework, I attach substantial weight to this harm. Harm to the character and appearance of the CA also weighs very significantly against the proposal. In addition, there is very limited harm to the SLA. The Framework makes clear that very special circumstances will not exist unless the harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
34. While the other considerations in this case carry limited weight in favour of the proposal, they do not clearly outweigh the totality of the harm I have found. Consequently, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

35. The proposal conflicts with statutory requirements, the Framework, and the development plan as a whole. Accordingly, the appeal should be dismissed.

A Caines

INSPECTOR