



Appeal Decision

Site visit made on 26 March 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2024.

Appeal Ref: APP/W4223/D/24/3336694

Cribbstones, Delph New Road, Delph, Oldham OL3 5BY

- 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 and Mrs J Clark against the decision of Oldham Metropolitan Borough Council.
 - The application Ref is FUL/350662/23.
 - The development proposed is the erection of timber fence to residential boundary and proposed railings to entrance.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have not included the full description of development from the appellant's planning application form as it makes reference to the development being retrospective and that is not in itself development. However, I was able to see on my site visit that the fence has been erected.
3. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023 and therefore I have referred to that revised document in my determination of this appeal. I am satisfied that the parts of the Framework most relevant to this appeal have not substantively changed from the previous iteration.
4. The main parties have agreed that the fence represents inappropriate development in the Green Belt as defined in the Framework. I concur with that position.

Main Issues

5. The main issues are:
 - (i) The effect of the timber fence on the openness of the Green Belt
 - (ii) The effect of the timber fence on the character and appearance of the area
 - (iii) The effect of the timber fence on trees
 - (iv) Whether 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

Openness

6. A fundamental aim of Green Belt policy, as set out by the Framework, is to prevent urban sprawl by keeping land permanently open. Openness is, in effect, the absence of development and it has both a spatial and visual aspect to it.
7. The fence has been erected along the majority of the boundary of the property with Delph New Road. That boundary extends a considerable distance along the road. The fence sits for the most part on top of a pre-existing stone wall although some sections of it extend up from ground level. The fence is of a height that prevents vision over it when stood at road level. Owing to its height and length it impacts on both the spatial and visual openness of the Green Belt.
8. For these reasons and on consideration of the scale of the development, in particular the height and length of the fence, I conclude that it has caused moderate harm to Green Belt openness. The development is therefore contrary to the specific guidance within the Framework in this regard.

Character and appearance

9. The boundary of the land opposite the appeal site is open and where boundary treatments exist elsewhere in the vicinity, these are mostly low walls. The general absence of tall, solid boundary structures helps to maintain a pleasant, open feel to the area which is befitting of its semi-rural surroundings. The notable exception is the front boundary of the adjacent dwelling, Shaymere, which has a high close boarded fence similar in appearance and height to the appeal fence. There are also properties further down Delph New Road that have high fences adjacent to the road.
10. Prior to the erection of the fencing, the boundary was formed by the retained stone wall and open fence posts which are, for the majority of their length, only of a low height. In the context of what is present in the area, this boundary treatment was typical of the character and appearance of its surroundings. Conversely, the fencing that has been erected is not typical of the boundary treatments that prevail in the area, and it considerably reduces the open feel of the surroundings. Its impact is further intensified by its substantial length along the boundary with the public highway. It appears as a stark and incongruous visual barrier in the street scene as a result and has caused significant harm to the character and appearance of the area.
11. I acknowledge the visual similarity of the fence at Shaymere, which too is sited above a pre-existing low stone wall and which it would appear has recently obtained planning permission from the Council. However, compared to the appeal fence, that fence is of a considerably shorter length, and it is set immediately in front of a dense row of mature trees, at least some of which are evergreen. Its visual impact is not as a result as great as that of the appeal fence and it has not had such a significant impact on the character and appearance of the area. The presence of the fence at Shaymere does not therefore justify the retention of the appeal fence.
12. Other fences on Delph New Road are referred to by the appellant. That at 43 Delph New Road is reasonably near to the appeal site but it is short in length and an isolated example in its surroundings not typical of the boundary

treatments of the properties close to it. Those fences in the area close to the junction with the A62 are at properties which back onto the public highway and thus provide enclosure for their rear garden areas. But, in any event, those fences are far enough away from the appeal site so not to form part of the character and appearance in which it is appreciated.

13. The appellant suggests that the fence could be dark stained with the aim of reducing its visual impact and that this could be secured by way of a planning condition. Whilst this may reduce its starkness to some degree, it would not overcome the visual harm, which arises primarily from its height and length.
14. In conclusion, the fence has resulted in significant harm to the character and appearance of the area owing to its height, length and positioning. Consequently, it fails to accord with Policies 9 and 20 of the Development Plan Document – Joint Core Strategy and Development Management Policies 2011 (DPD) where they seek to promote high quality design and to protect character and appearance.

Trees

15. The third reason for refusal refers to the impact that has occurred on the trees that are close to where the fence has been erected. Whilst the appellant points out that these are not covered by Tree Preservation Orders nor are they in a Conservation Area, they nonetheless make a positive visual contribution to the area and form part of what are verdant surroundings.
16. The Council's Arboricultural Technician refers to concerns regarding the digging of holes to accommodate the new fence posts, the use of concrete in those holes and the use of wood screws to affix wooden braces to trees. Although the appellant states that the trees have not been affected by the fencing, they have not provided a response to the three specific arboricultural concerns that have been raised.
17. As such, I cannot be sure that the fencing that has been erected accords with Policy 9 of the DPD and Saved Policy D1.5 of the Unitary Development Plan 2006, which seek to promote local environmental quality and to ensure that development is designed, insofar as is reasonably practicable, to maximise the retention and continued health of trees.

Other Considerations

18. The appellant refers to what they consider would be a fallback position whereas a fence could be set back further away from the public highway so to potentially benefit from permitted development rights. However, the closeness of the watercourse to parts of the site boundary and the presence of embankments adjacent to it means that it does not appear possible that any kind of continuous fence line could be established with a set back. Furthermore, even if a fence could be set back, it would have a lesser visual impact on the character and appearance of the area in terms of its impact when viewed from Delph New Road as it would be less imposing. Any potential fallback therefore carries only limited weight in support of the retention of the fence that has been erected.
19. The appellant considers that the fact that permitted development rights have not been removed for land in the Green Belt means that the Government's fundamental Green Belt aims of preventing urban sprawl by keeping land

permanently open do not extend to preventing permitted development for minor operations including gates, fences and walls. However, they do not suggest that the appeal fence is permitted development and they concede that it is inappropriate development in the Green Belt. I have further found that it has caused moderate harm to Green Belt openness and significant harm to the character and appearance of the area. That permitted development rights exist for fences in the Green Belt does not negate the need to assess those matters when presented with a development which does require the benefit of express planning permission. Therefore, this consideration too carries only limited weight.

20. Reference is also made to the fence being required to reduce noise, provide privacy and provide security. In terms of noise and privacy, there is a physical buffer provided by the river and intervening vegetation between the road and the garden areas of the dwelling, which are positioned away from the road. Due to its positioning, it does not appear that the fence would provide any substantial noise attenuation or privacy to the new dwelling that is currently under construction. I am not therefore persuaded that matters relating to noise reduction and privacy offer any notable justification for the fence. The presence of the river provides a natural barrier and in any event for the most part the fence is placed on top of the stone wall which provides a step should anyone be determined to climb over the fence and reach either the property or the river. The fence is therefore also not justified on the basis of security. These matters carry limited weight in its favour.
21. The fence does however provide a physical barrier which could prevent, or at least deter, the throwing of litter onto the appellant's land. However, I have not been provided with any substantive evidence to suggest to what degree this was previously an issue. This matter therefore also carries limited weight in support of the development.
22. The fences at Albion Farm Shop and Brooklands which have been highlighted by the appellant as examples of fences in the Green Belt are some considerable distance away from the appeal site. I have not been provided with any information as to how they came to be present, but the Council suggest that there is no planning history pertaining to them. However, in any event, the presence of two other fences elsewhere in the Green Belt does not lend support to a development that I have found would be inappropriate and result in harm to openness and to character and appearance.

Conclusion

23. The Framework at Paragraphs 152 and 153 establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations.
24. The development is inappropriate development in the Green Belt and has resulted in moderate harm to its openness. It has also resulted in significant harm to the character and appearance of the surrounding area, and it has not been demonstrated that there has been no harm to trees as a result of the works that have been undertaken. Having regard to the reasons I have set out,

I find that the other considerations in this case, taken both individually and cumulatively, do not clearly outweigh the harm to the Green Belt and the other harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

25. For the reasons given above, I conclude that the development conflicts with Policy 22 of the DPD and the objectives of the Framework where they seek to protect the Green Belt. Therefore, the appeal should be dismissed.

Graham Wraight

INSPECTOR