



Appeal Decision

Site visit made on 7 May 2024

by R Norman BA(Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

Appeal Ref: APP/J1915/W/23/3330239

Woodland Grove, Waterford, SG14 3FQ

- 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 J Johnson against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0144/FUL.
 - The development proposed is the erection of a gate.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt
 - The effect of the proposal on community cohesion;
 - The effect of the proposal on highway safety; and
 - 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.

Procedural Matter

3. The appeal submissions from the Council and Appellant refer to the 2021 National Planning Policy Framework. An updated version was published in December 2023 which replaced the 2021 version and I have considered the proposal against the most recent publication. References to paragraphs of the National Planning Policy Framework reflect the latest version.

Reasons

Green Belt

4. The appeal site comprises a residential estate of eight properties, accessed off Sacombe Road. There is also access into the rear of the estate from Vicarage Lane and Waterford Heath Car Park. The site is located to the east of Waterford and to the north of the main settlement of Hertford and is relatively detached

from the settlements. The appeal site falls within the Metropolitan Green Belt. The proposal would introduce an electric sliding gate across the main vehicular access.

5. The National Planning Policy Framework (2023) (the Framework) attaches great importance to Green Belts and states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 143 of the Framework identifies the five purposes of Green Belt land, which includes assisting in safeguarding the countryside from encroachment.
6. The Framework goes on to say that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 152) and paragraph 154 states that the construction of new buildings should be regarded as inappropriate. Exceptions to this are listed in paragraphs 154 and 155. However, these exceptions do not refer to the installation of any gates or boundary treatments and therefore, for the purposes of the Framework and the Green Belt, the appeal proposal should be considered as inappropriate development. Policy GBR1 of the East Herts District Plan October 2018 (District Plan), states that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework.
7. I therefore find that as the proposal does not fall within any of the exceptions listed in the Framework it is, by definition, inappropriate development within the Green Belt and therefore harmful, to which I attach significant weight. As such, there should be very special circumstances to justify the proposal. I will return to this later on.

Openness

8. Openness is an essential characteristic of the Green Belt. Whilst the proposal would be a relatively small structure compared to dwellings and other buildings, developments of this scale can have an impact on the openness of the Green Belt.
9. The proposed gate would range from 1.6 and 1.8 metres in height approximately and would comprise a relatively open vertical railing design. Given the scale and design, which would allow for views through into the wider area, as well as the backdrop of the existing residential properties and the existing boundary fencing, I find that the proposal would not result in harm to the openness of the Green Belt nor have a greater impact on the openness than existing development. It would therefore preserve openness in this instance.
10. For the above reasons, the proposal would comply with the provisions of the Framework which seek to keep land permanently open and preserve the essential characteristics of the Green Belt.

Community Cohesion

11. Woodland Grove is a small estate of dwellings, detached from the main village of Waterford, but in proximity to some sporadic properties set in a linear form along Sacombe Road. Policy HBH2 of the Bengoe Neighbourhood Area Plan 2019 – 2033 (Neighbourhood Plan) states that proposals for 'Gated

Communities' in the Plan Area will not be supported. It is considered that they do not support the principles of community cohesion.

12. The proposal would result in a gated estate and would therefore be against policy however, I find that the appeal estate is likely to be a fairly self-enclosed development anyway as a result of its location and level of separation from the nearby main settlements. I consider that the presence of the proposed gate would be unlikely to exacerbate this. Furthermore, there are other pedestrian accesses from the existing estate into the surrounding rural lanes and the community nature park which would remain.
13. The Appellant has referred to other examples of properties and estates with gates. Along Sacombe Road some of the individual properties have gates across their driveways, however these are not directly comparable to the proposal before me as they serve individual properties. I note the other examples of gated estates, however I have limited details as to the considerations behind these and therefore I cannot conclude that these set a precedent for this proposal. Nevertheless, in any event, I find that the proposal would not result in undue harm with regards to matters of community cohesion.
14. Accordingly, whilst the proposal would fail comply with part II of Policy HBH2 of the Neighbourhood Plan, I have not found that harm would arise for the above reasons and therefore material considerations outweigh the policy conflict in this regard.

Highway Safety

15. The proposed gate would be set back from the main highway by about 7.5 metres and would operate by sliding across parallel to the existing fencing. The Appellant advises that the gate would be operated by a key fob for the residents, automatic sensors to open the gate between 6am and 6pm, and would be left open on refuse collection days.
16. Whilst I accept that many vehicles visiting the site would be under 7.5 metres in length, there may be occasions where larger delivery vehicles such as lorries require access into the estate. I note that Sacombe Road is a C road however the speed limit is 60mph at this point along the road and therefore vehicles may be travelling at relatively high speeds. Whilst the gates could be arranged to be open or could open as a vehicle approached, having the gates open for long periods of time would potentially undermine the security objectives of having the gates there in the first place. Furthermore, this arrangement could not be sufficiently controlled as part of the application and appeal and there could be occasions where the gates were not set to open resulting in vehicles potentially overhanging the highway.
17. The Appellant has referred to the guidance referring to a shorter distance of 6 metres in the Section 4 Design Standards and Advice Roads in Hertfordshire Highway Design Guide (3rd edition). However, it appears that this relates to individual driveways to allow cars to pull clear of the highway, and therefore is not applicable in relation to this appeal proposal, which relates to a gate across an estate road.
18. Consequently, it has not been adequately demonstrated that the measures proposed would be sufficient to ensure that there would be no detrimental

impact on highway safety as a result of vehicles accessing and exiting the appeal site. Based on the level of evidence before me, I find that the proposal would therefore fail to comply with Policy TRA2 of the District Plan which seeks to ensure that development proposals should be acceptable in highway safety terms, amongst other things.

Very Special Circumstances

19. When considering any planning application, substantial weight should be given to any harm to the Green Belt. 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 proposal, is clearly outweighed by other considerations.
20. I have found that, whilst the proposed gate would comprise inappropriate development, as a result of the design which incorporates open railings allowing views through to the countryside and the overall size, there would not be harm to the openness of the Green Belt arising as a result of its installation. There would however be harm to highway safety for the above reasons.
21. The Appellant has put forward reasons for requiring the gates in relation to crime and the safety of the residents, including safety for pedestrians and children playing on the communal front area from vehicles travelling at speed and via the blind bend, and security from suspicious visitors at night and during the early hours. It has also been highlighted that there was previously a close boarded fence along the boundary of the site. I accept that this previously impacted further on the openness of the Green Belt. However, in relation to matters of safety, I have limited details before me of the level of crime or likelihood in the area, nor why other methods of security, such as CCTV or video doorbells, are not appropriate or sufficient to provide a deterrent. Furthermore, in relation to pedestrian safety it is unlikely that a vehicle would be travelling at speed having slowed to enter the estate and due to the shape and length of the estate road.
22. Accordingly, given my findings above, I have not been provided with sufficient evidence to conclude that there are very special circumstances in this case which would justify allowing the proposal. This would be contrary to paragraphs 152 and 153 of the Framework.

Other Matters

23. I note that under usual Permitted Development (PD) considerations that the gate could be constructed under these rights. However, the PD rights were removed as part of the permission for the estate in order to control all means of enclosure, including gates, therefore the fallback position of PD rights does not carry weight in this instance.

Planning Balance

24. I have found that the proposal would not be acceptable in highway safety terms and that very special circumstances to justify the development within the Green Belt have not been put forward. Whilst I have identified policy conflict in relation to HBH2 of the Neighbourhood Plan, there would not be harm arising in relation to community cohesion. The proposal would provide some benefits discussed above, however for the above reasons I find these carry limited weight in the planning balance. Inappropriate development in the Green Belt

should be given substantial weight and the proposal would conflict with Policy TRA2 of the District Plan.

25. I therefore find that the benefits and other circumstances identified by the Appellant do not outweigh the harms arising from the proposal and the substantial weight attached to Green belt harm, in this instance and the resulting conflict with the relevant local plan policies and the Framework.

Conclusion

26. For the reasons given above, and having had regard to all matters raised, the appeal should be dismissed.

R Norman

INSPECTOR