



Appeal Decision

Site visit made on 23 July 2024

By D Moore BSc (HONS), PGDip, MCD, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 5th August 2024.

Appeal Ref: APP/M0655/W/23/3330807

Summit Cottage, Summit Close, Stretton, Warrington WA4 4NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990, as amended (the 1990 Act) against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs C Wotton against the decision of Warrington Borough Council.
- The application Ref 2021/38471, dated 11 January 2021, was refused on 31 July 2023.
- The development proposed is described as “fence and gates”.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw that fencing and gates have been erected at the appeal premises. For the avoidance of doubt, I have considered the appeal on the basis of the plans submitted with the application, which are listed as JG-1 location of new fencing, JG-2 access detail and the amended site location plan ref 100047474.
3. The Council adopted its Local Plan 2021/22 – 2038/39 on 4 December 2023. Policies CS5, MP3, QE7 and CC2 of the Warrington Borough Council Local Plan Core Strategy (2014) have been superseded by Policies GB1, INF1, DC6 and DC1.

Main Issues

4. The main issues are:
 - Whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - The effect of the development on the openness of the Green Belt.
 - The effect of the development on the character and appearance of the area.
 - 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

Whether the development would be inappropriate development in the Green Belt

5. The application sought planning permission for the erection of a fence and gates to the front, side and rear boundaries of a semi-detached house known as Summit Cottage. The site lies within the Green Belt.

6. The Framework states 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 their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is 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.
7. The Framework advises that the construction of new buildings is inappropriate development in the Green Belt. The term 'building' is defined in Section 336 of the 1990 Act as any structure or erection, and any part of a building, as so defined. Applying this definition would mean that walls, fences and gates should be regarded as buildings for the purposes of the Framework.
8. The development would not fall within any of the exceptions set out in paragraph 154 of the Framework and, consequently, it would be inappropriate development in the Green Belt.

The effect on openness

9. It is accepted that openness has a spatial aspect as well as a visual aspect. Openness is the counterpart of urban sprawl, and it does not imply freedom from any form of development. Rather than treating any change as having a greater impact on openness of the Green Belt, the correct approach is to consider the impact or harm, if any, wrought by the change. Whether or not any change will have an adverse impact, and so cause harm to openness, might depend on factors such as the scale of the development, its locational context, and its spatial and/or visual implications. The visual qualities of the land may be an aspect of the planning judgement in applying this broad policy concept. Also, the impact of development on openness is not necessarily related to size but also purpose.
10. The proposed fencing and gates would have no spatial effect on openness since the development would comprise boundary treatment only. Nonetheless, it would enclose land and create a solid visual barrier, which would interrupt views across the appellants' garden to the surrounding countryside. As such, I consider that the development would have an adverse visual impact on openness. However, I saw that the Green Belt is not devoid of buildings and other development in this location. In addition, there is a motorway interchange nearby. Consequently, I find the overall harm to openness to be limited in this context.

Character and Appearance

11. The appeal site is accessed from the A559 Northwich Road, and it is situated close to the M56 motorway junction. Summit Close is a relatively narrow cul-de-sac lined with trees and hedges. There are fields or verges between the site and the roads, which provide separation from the traffic. There is other residential development to the south and east, and the surrounding land is mainly agricultural. The area is semi-rural in character and appearance.

12. The fencing extends along the length of the frontage with the road for a about 27 metres (m) before turning at right angles and running along the southern boundary. The height of the fence is an average of 2.4m and it is built of close boarded timber. The sliding access gates are of a solid timber construction, also extending to around 2.4 metres in height. The fence continues along one side of the driveway, which is secured by high metal gates set back from the road. The plans show the proposed fence was originally intended to run along part of the eastern boundary.
13. The parts of the fence/gates that extend alongside Summit Close are visually intrusive due to their height and length, and their solid appearance. I saw that the boundary to the side and rear of the adjoining property, Summit House, comprises a tall semi-evergreen hedge, which has a softer appearance in the street scene. The remainder of the lane is bordered by trees and hedgerows. In contrast, the front fence at the appeal site is a dominant feature that does not respect the semi-rural character of the area.
14. The fence that runs alongside the driveway is also relatively tall, however, it has less of a visual presence in the street scene because it is less prominent. Similarly, the rear fence runs alongside a former field access which is overgrown and bordered by a mature hedge that provides screening. This section is not considered visually harmful despite it being visible from the nearby footpath which connects Summit Close to Well Lane. The eastern section has not been erected and the appellants have stated this would not be built. In any event, this section would also be screened by an existing hedgerow. However, this does not overcome the harm that results from the section of the boundary treatment that runs alongside the road.
15. I find that the development has an adverse effect on the character and appearance of the area. Given the visual impact is relatively localised and largely restricted to views from Summit Close, I attached limited weight to the harm identified.

Other Matters

16. The appellants explain that they have established status as Travelling Showmen and members of the Travelling Showman's Guild. More recently, they have chosen to move to permanent accommodation, and they now operate catering facilities as opposed to the more traditional fairground rides. The appeal site meets their needs as there is adequate space for parking their trailer and catering vehicles. The fencing and gates are required to secure the site and the appellants argue it is necessary to protect their lifestyle.
17. The site is readily accessible from the road network and there is limited natural surveillance along Summit Close. The appellants desire to protect their property is justified and I accept the need for security is greater due to the type of vehicles that would be parked. Theft or damage to the catering vehicles would impact on the appellants' lifestyle and means of making a living. This consideration carries moderate weight, therefore.
18. The appellants also point out that the 'permitted development' rights are a valid fallback position. Under Article 3 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, which concerns gates, fences, walls and other means of enclosure, a

fence and or gates could be erected adjacent to the highway of a height up to 1m. Elsewhere a fence or gates of up to 2m could be erected.

19. The fencing along the side and rear boundaries exceeds the permitted development limitations, but only marginally. If a fence were constructed lawfully on these boundaries, I consider its impact would be similar. Lowering the fences to meet the limitations would not have any material effect in my judgement.
20. Nonetheless, the fencing along the frontage results in harm as I have explained above. This element is adjacent to the highway and so a reduction to 1m would address that harm. As an alternative, the appellants indicate they would seek to erect a fence further away from the highway within the site, to create a secure compound. Given the need for security, I consider that this would be a possible outcome. The creation of an internal compound would also result in visual intrusion and would not necessarily be desirable. Therefore, I afford this consideration moderate weight.
21. The appellants have provided photographs of other examples of solid fencing in various localities. It is not clear whether these are lawful, and the site-specific circumstances may justify that type of fencing. This consideration can only carry very limited weight, therefore.
22. I have found that the development would be inappropriate development in the Green Belt, which is harmful by definition. That harm carries substantial weight. There would also be limited harm to openness and to the character and appearance of the area. The combined weight of the other considerations advanced by the appellants is significant, but this does not clearly outweigh the totality of the harm that I have identified.
23. I have had due regard to the Public Sector Equality Duty set out under the Equality Act 2010. The harm caused by the appeal development outweighs its benefits in terms of eliminating discrimination against persons with a protected characteristic, advancing equality of opportunity for those persons and fostering good relations between them and others.

Conclusion

24. I find that the 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. The development would, therefore, be contrary to Policies GB1, INF1, DC6 and DC1 of the Warrington Borough Council Local Plan (2023) which seek, among other things, to protect the Green Belt from inappropriate development while also promoting good design that respects the local area. The proposal would not accord with the development plan as a whole, therefore.
25. For the reasons given above, the appeal should be dismissed.

D Moore

Inspector