



Appeal Decision

Site visit made on 24 September 2024

by S. Hartley BA (Hons) Dist.TP (Manc), DMS, MRTPI, MRICS

an Inspector appointed by the Secretary of State

Decision date: 2 October 2024

Appeal Ref: APP/W4325/D/24/3347488

Thors Hill, Telegraph Road, Thurstaston, CH61 0HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Lea against the decision of Wirral Metropolitan Borough Council.
 - The application Ref is APPH/23/01376.
 - The development proposed is the retention of as-built alterations to the access from Telegraph Road as an alternative to alterations approved in application APP/21/02109.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 30 July 2024 the Government began consultations upon reforms to the National Planning Policy Framework (the Framework) which closed on 24 September 2024. The reforms are draft and may be subject to change and therefore I afford the draft changes only limited weight in the decision-making process. As there are no proposed reforms which are pertinent to the main issues in this appeal, it has not been necessary for me to consult the main parties upon it.
3. The local planning authority (LPA) has referred to its emerging Wirral Local Plan 2021-2037, but which has not yet been formally adopted. Consequently, I can only afford it limited weight in the decision making process.
4. The appeal is made retrospectively for development already carried out.
5. Alterations to the access were approved under application APP/21/02109, granted on 10 August 2022 and which is extant. However, that approval is for a different design to what has been built and for the development which is now the subject of the appeal.

Main Issues

6. The appeal property is located within the Green Belt.
7. The main issues are therefore (i) whether the proposed development is inappropriate development within the Green Belt including its impact upon openness; (ii) whether the proposal preserves or enhances the character or appearance of the Thurstaston Conservation Area (1981) (CA); (iii) whether the proposed development affects the Dee Coast Area of Special Landscape Value, and (iv) if the proposal is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is

clearly outweighed by other considerations so as to amount to very special circumstances to justify development.

Reasons

Whether inappropriate development

8. The entrance in 2020, as shown in the appellant's planning submission, included flank stone walls with low sturdy stone pillars to either side of the access lane. The appellant states that *'a large gate has been added to the entrance to the site, which has improved the security and safety of the site. The walls have been raised and the access has been widened as a consequence of the alterations, meaning that larger vehicles can now access the property.'*
9. The extant planning approval (Ref APP/21/02109) includes a widened access, with stone walls to either side and with an entrance gate, though the flank walls do not rise up to the height of those which are the subject of the appeal, and the gate is much shorter in height.
10. Policy GB2 of the Wirral Unitary Development Plan 2000 (UDP) states that there is a general presumption against inappropriate development in the Green Belt and such development will not be approved except in very special circumstances. While the policy allows for exceptions, none are applicable to the appeal case. Paragraph 154 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt. The same paragraph has a closed list of exceptions, but which does not include gates, piers or fences.
11. The definition of a 'building' in section 336 of the Town and Country Planning Act 1990 includes any structure or erection, and therefore I have assessed the proposal upon that basis.
12. The appellant considers that it can also be argued that from a Green Belt perspective in Wirral, extensions of up to 50 percent increase are allowed to residential properties (UDP Policy GB5) which states:

'The extension of existing dwellings in the Green Belt will be permitted, provided that the floorspace of the resultant dwelling is no more than 50% larger than that of the habitable floorspace of the original dwelling, and subject also to the enlarged dwelling not having a harmful visual impact on its surroundings'.
13. However, as the appeal development is at a considerable distance from the host property, I do not consider that it can be considered to be an extension to it and where a 50% limit would apply.
14. I am aware that the extant approval allows for the demolition and rebuilding of the access gates/ structure and that this too can be considered to be a new building, contrary to paragraph 154 of the Framework which states that the construction of new buildings should be regarded as inappropriate in the Green Belt. However, the reasons leading to the grant of planning permission are not transparent, though highway safety was a consideration.
15. I do not consider that the earlier approval sets a binding precedent when considering whether the appeal proposal is inappropriate development in the Green Belt. I am dealing with a planning application for new development

(albeit retrospective) and it is necessary that I assess it upon its individual planning merits and against the position prior to the unauthorised construction of the appealed development.

16. The appellant's evidence is that prior to the appeal development being constructed, there was a narrower access flanked by walls and pillars which were not as high at the point where such development now meets the new gates. Moreover, there were no gates. As a matter of fact and degree, I find that the widened access with associated flanked walls and pillars, and provision of gates, is materially larger than what existed before and therefore fails to preserve openness. Therefore, whether one considers this to be development under paragraph 154 (d) or paragraph 155 (e) of the Framework, the appeal development constitutes inappropriate development in the Green Belt.
17. For the reasons outlined above, the development is contrary to Policy GB2 of the UDP and fails to meet any of the exceptions to the erection of buildings in the Green Belt as outlined in chapter 13 of the Framework.

Openness

18. A fundamental aim of Green Belt policy, set out in paragraph 142 of the Framework, is to keep land permanently open. Openness is the absence of development, and it has both a spatial and a visual aspect to it.
19. Paragraph 142 of 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'*.
20. Prior to the construction of the appealed development, the access entrance had low walls to the sides and had no gate. The appeal proposal includes side walls which, while these have been reduced somewhat in height at the point where the access joins the main road, nevertheless, increase in height further in, where they meet larger side pillars than those which formerly marked the entrance, and there is now a high gate.
21. I appreciate that the gate allows views through it. Nevertheless, when the totality of the appealed construction is considered, including the gate and the side walls, the overall effect is to have a limited adverse impact upon the openness of the Green Belt.

Effect upon the CA

22. The CA's appearance is that of a loose knit agricultural settlement centred around its village core. Sandstone boundary walls are a common feature which add positively and distinctively to the significance of the CA.
23. The appeal site lies in the northern part of the CA and the host property forms one of a number of large dwellings in secluded grounds. The host property is not listed and there are no listed buildings where their settings would be adversely affected by the appeal proposal.
24. While many of the accesses to properties are simply designed, there is no overriding or uniform treatment other than the common use of sandstone boundaries.

25. The appeal proposal retains the use of such a boundary material in its side walls and pillars. While the incorporation of relatively high, imposing gates may not be a particularly common feature in the CA, there are some similar examples which means it is not a unique feature, nor do I consider this to be a particularly urban, as distinct from a rural, design element.
26. Therefore, for these reasons, I conclude that by its scale, appearance and layout, the development preserves the character and appearance of the CA and as such accords with Policies CH2 of the UDP which has this as its aim, and with Policy CH19 which requires the retention of unifying features in the CA including building materials and stone walls.

Effect upon the Area of Special Landscape Value

27. The appeal site is shown in the UDP to be within an area of Special Landscape Value (Dee coast including Heswall Dales, Thurstaston Common and Royden Park). It is an area designated for its scenic importance and where the impact of new development upon its visual qualities merits careful consideration. UDP Policy LA1 is especially protective of development in an open setting, or of development upon a prominent skyline, or which would erode important views, or the appearance of the area.
28. I have concluded that the appeal proposal, by its design and the use of natural sandstone, does not detract from the CA of which the countryside setting and its appearance forms an important part. It is not on a skyline, and I do not consider that, by its limited size within its setting, that it erodes important views or the general scenic appearance of the area.
29. Therefore, I conclude that the appeal proposal accords with the aims of Policy LA1 of the UDP.

Other Considerations

30. I have given consideration to the earlier, extant permission for changes to the entrance, though I consider that the current appeal proposal, by its additional gates and taller gate pillars and some walling, constitutes more harmful development in Green Belt terms.
31. I can appreciate that the appeal development provides a degree of security to the host property, especially with regard to vehicular traffic, though I have no details of the extent of any such necessity. Nevertheless, this is similarly provided by the less harmful extant approval, and which diminishes the weight which I can give to this matter when considering the current appeal proposal.
32. In addition, I can see that the reconfiguration of the access from its original design is an improvement in terms of highway safety. However, as with the matter above, such an improvement is provided by the less harmful, in green Belt terms, extant permission.
33. Therefore, the fall-back position does not justify allowing the appeal development which has a more harmful impact upon the openness of the Green Belt.
34. Therefore, I afford these matters only limited weight and which do not outweigh my conclusions upon the main issues.

Planning Balance and Conclusion

35. I have concluded that the appeal proposal preserves the character and appearance of the CA and that of the Area of Special Landscape Value within which it is situated. These are therefore matters of neutral consequence in the planning balance. I have concluded that the development amounts to inappropriate development in the Green Belt and that limited harm has been caused to openness. The totality of this harm is a matter to which I afford very substantial adverse weight in decision making terms. On balance, I conclude that the harm caused to the Green Belt by reason of inappropriateness, and the limited harm caused to openness, is not clearly outweighed by any other considerations so as to amount to very special circumstances to justify development. Consequently, the appeal should be dismissed.

S. Hartley

INSPECTOR