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# Appeal Decision

Site visit made on 25 September 2024

**by S Rawle BA (Hons) Dip TP Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 October 2024**

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**Appeal Ref: APP/A1910/W/24/3341794**

**Land adjacent to Fir Croft/Alexandra Road, Alexandra Road, Chipperfield, Kings Langley Hertfordshire WD4 9DS**

- 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 O'Farrell of Orchard Alexandra Ltd against the decision of Dacorum Borough Council.
  - The application Ref is 23/01804/RET.
  - The development proposed is the erection of a 1.52 metre high gate and associated hardstanding
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of a 1.52 metre high gate and associated hardstanding at Land adjacent to Fir Croft/Alexandra Road, Alexandra Road, Chipperfield, Kings Langley Hertfordshire WD4 9DS in accordance with the terms of the application, Ref 23/01804/RET, and the plans submitted with it.

## Preliminary Matters

2. At the validation stage of the planning application, the description of development and the address have been amended from that included on the application form. Given that the application was validated on that basis I have used the slightly amended address. However, as the amended description of development included matters that are not acts of development, I have removed these from the description set out above. Moreover, the development has been carried out and I have determined the appeal on that basis.

## Main Issues

3. The main issues are:
  - whether or not the development is 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 openness;
  - the effect of the development on the character and appearance of the area and in particular whether it would preserve or conserve the setting of the Chipperfield Conservation Area; and
  - if the development 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 the very special circumstances required to justify the development.

## **Reasons**

### *Whether or not inappropriate development*

4. 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.
5. The term building is defined as follows in section 336 of the Town and Country Planning Act 1990, "building includes any structure or erection, and any part of a building or so defined, but does not include plant or machinery comprised in a building." As a result, the gate meets the definition of a building. The hardstanding area is an engineering operation.
6. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154.
7. Policy CS5 of Dacorum's Local Planning Framework - Core Strategy 2006-2031 adopted 25 September 2013 (CS) is consistent with the Framework as it sets out that the Council will apply national Green Belt policy to protect the openness and character of the Green Belt. The policy goes on to set out certain types of small-scale development that will be permitted including the replacement of existing buildings for the same use and limited extension to existing buildings. Moreover, Policy CS6 of the CS concerns selected small villages in the Green Belt, including Chipperfield and consistent with the Framework and Policy CS5 sets out that the replacement of existing buildings and house extensions will be permitted.
8. The appellant has suggested that the exception set out in paragraph 154(c) of the Framework, which concerns the extension or alteration of a building may apply. However, the development is not an extension or alteration of any of the recently constructed new dwellings at the Orchard site.
9. Paragraph 154(d) concerns the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. It is common ground between the main parties that there was a previous gate at the appeal site. However, this was removed to facilitate the development of the new dwellings. It was the intention to re-use the original gate, but due to an issue with a contractor the gate was lost. It follows that as there was no building existing on the site immediately before the replacement gate was installed, paragraph 154(d) cannot apply as there was no building to be replaced.
10. It is also common ground between the main parties that the modest hardstanding area does not amount to inappropriate development within the Green Belt. I agree. The hardstanding area is an engineering operation and in accordance with paragraph 155, as it is sited at the end of a gravel access drive it preserves openness.
11. In relation to the gate, the appellant is unable to rely on any of the exceptions contained in paragraph 154 of the Framework. Nor does it fit with any of the

types of development that are permitted under policies CS5 and CS6 of the CS. The development is therefore inappropriate development in the Green Belt.

12. I therefore conclude that the development amounts to the construction of a new building in the Green Belt and is inappropriate development, which is, by definition, harmful to the Green Belt. In accordance with the Framework, I give substantial weight to any harm. It follows that the proposal would conflict with the Green Belt policies contained within the Framework and also with Policies CS5 and CS6 of the CS.

#### *Effect on openness*

13. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. In spatial terms the in-filling of the gap would have an impact and even when open, the footprint of development on the appeal site would increase which would reduce openness. However, the gate fills the space between two existing close boarded fences that are higher than the development and given the configuration of the road the gate fits neatly into the gap that marks the end of the main part of Alexandra Road and the newly developed dwellings. It also appears subservient to the existing fence on either side. As a result, spatially and visually the introduction of the gate with a height of 1.52 metres would cause limited harm to openness.
14. Further the development does not conflict with the purposes of including land within the Green Belt as the appeal site is located within the built-up area of the village and would not result in the unrestricted sprawl of a large built-up area, would not result in neighbouring towns merging into one another, would not result in encroachment into the countryside, and would not undermine urban regeneration. Further, taking account of my findings on the next issue, it would not harm the setting and special character of the village.
15. I therefore find there would be limited harm to openness, but the development does not conflict with the purposes of including land within the Green Belt. As a result, overall, I find that the harm to the Green Belt by reason of inappropriateness and the loss of openness is limited. However, as required by the Framework, I still give substantial weight to that limited harm.

#### *Character and appearance*

16. The appeal site is located at the very end of Alexandra Road outside, but adjacent to, the Chipperfield Conservation Area (CCA). There are a number of attractive period houses which sit comfortably on this private road. Chipperfield has a very attractive key focal point at the crossroads with attractive period housing and a church surrounding a verdant open area comprising a Common and cricket pitch with fine views across the open part of the Common towards the woodland and from the woodland edge.
17. The significance of the CCA derives from the enduring historic pattern of development with a key focal point. This creates interest in the built form, which provide both aesthetic and historical value.
18. As outlined above, the gate fills the space between two existing close boarded fences that are higher than the development. Given the configuration of the road the gate fits neatly into the gap that marks the end of the main part of Alexandra Road and the newly developed dwellings. Moreover, the development appears subservient to the existing fence on either side.

19. The Council acknowledge the precedent for the siting of a gate in this location and therefore raise no in-principle objection to the erection of a replacement gate on the site. However, they consider that a five-bar gate would result in a more traditional, visually porous gate that would preserve the character of the CCA. I accept that a five-bar gate would be compatible with its surroundings, but so is the erected gate. It does not appear discordant or jarring in the streetscene but preserves the attractive streetscape and as it is set down from the existing close boarded fencing on either side, the scale of the development is appropriate.
20. Moreover, given the visual context and as the development forms a suitable backstop the gate does not unacceptably disrupt any important views. Rather the gate provides a simple design solution which results in an effective transition between the conservation area and the new development. It follows that the development preserves the significance of the setting of the CCA which is a designated heritage asset.
21. I therefore conclude that the development would not harm the character and appearance of the area and would preserve and conserve the setting of the CCA. Consequently, the proposal would accord with policies CS11, CS12 and CS27 of the CS which among other things seek to preserve attractive streetscapes, integrate with the streetscape character and protect, conserve and enhance the setting of designated assets. The development would also accord with the Chipperfield Village Design Statement adopted in 2001 which sets out that gateways should be simple, without ornate high gates and grand architectural entrances. The development also accords with the Framework which seeks to ensure development is sympathetic to local character.

### **Other Considerations**

22. It is common ground that the appellant could erect a one metre gate in the same position under permitted development rights (the alternative development). Given that the appellant has already erected a gate in this position and has pursued this appeal, I am satisfied that there is a greater than a theoretical possibility that the alternative development might take place and will be implemented if this appeal is dismissed.
23. The alternative development would also infill the gap between the two existing close boarded fences when closed and would have a similar footprint to the erected development in both the open and closed position. I have found that the development would cause limited harm to openness. Although lower than the gate erected, there would be minimal material difference between the gate that has been erected and the alternative development in terms of their respective impact on the Green Belt. I therefore do not agree with the Council who afforded the fallback position limited weight, but rather accord it substantial weight as a material consideration in making this decision.
24. Moreover, even if there was no fallback position, the appellant highlight that historically there has always been a gate in this general location and the proposed site layout plan for both the original application for the new dwellings and the subsequent s73 application for an amended scheme showed a gate as part of each approved development. As a result, as set out above, the Council accept that a precedent (both historically and recently) has been set for the installation of a gate. In light of this, the Council acknowledge that significant weight should be given to this other consideration. I agree.

25. I note that in addition to Green Belt and character and appearance matters, interested parties have expressed concern about highway safety issues, including emergency and delivery vehicle access and flooding concerns. I note that the highways authority does not object on highway safety grounds and the Council confirm that due to the topography of the appeal site which facilitates the drainage of surface water into existing drainage channels and not onto Alexandra Road, the development does not create a significant flood risk. Based on the available evidence I have no reason to take a different view in relation to highway safety and flooding. As a result, these factors do not weigh against the development.
26. I also note that neighbours have expressed concern that some of the works has been undertaken on their land which has involved removal of part of a hedge. However, these are private matters between neighbours which are covered under separate legal rights and have not altered my view on the material planning merits of this case.

### **Green Belt Balance**

27. Overall, the proposal would be inappropriate development in the terms set out by the Framework and would result in limited harm due to the loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt.
28. On the other hand, I have found that there would be minimal material difference between the gate that has been erected and the alternative development in terms of their impact on the Green Belt. In addition, as acknowledged by the Council, a precedent (both historically and recently) has been set for the installation of a gate in this part of Alexandra Road.
29. Consequently, in the particular circumstances of this case, the limited harm I have identified to the Green Belt by reason of inappropriateness and the loss of openness are clearly outweighed by other considerations. Looking at the case as a whole, I consider that very special circumstances exist to justify the development. Further, while the proposal conflicts with certain development plan policies as set out above and thus with the development plan when read as a whole, there are material considerations that indicate that the decision should be made otherwise than in accordance with it.

### **Conditions**

30. As the development has already been undertaken it is not necessary to impose a commencement condition. Further, the formal decision sets out that permission is granted in accordance with the terms of the application and the plans submitted with it and consequently no other conditions are necessary.

### **Conclusion**

31. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. I therefore allow the appeal.

*S Rawle*

INSPECTOR