



Appeal Decision

Site visit made on 12 November 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2024

Appeal Ref: APP/M1595/D/24/3340849

The Green, Rectory Road, West Tilbury, Essex RM18 8UD

- 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 Vinaykumar Patel against the decision of Thurrock Borough Council.
 - The application Ref is 23/01505/HHA.
The development proposed is the erection of 2m high fence on top of existing bricks of 1m along front and side of property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the Council's description of development as this more accurately and concisely describes the scheme before me.
3. The development is located within the setting of a Grade II listed building, and within West Tilbury Conservation Area. Accordingly, I have had special regard to the requirements of sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt and, if it would, the effect on openness;
 - whether the proposed development would preserve the setting of the Grade II listed building, Post House, and the extent to which the development would preserve or enhance the character or appearance of the West Tilbury Conservation Area;
 - the effect of the proposed development on pedestrian and 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 development.

Reasons

Whether inappropriate development

5. Policy PMD6 of the Thurrock Core Strategy and Policies for Management of Development (CS, 2015) broadly conforms to the general thrust of national Green Belt policy. Paragraph 152 of the National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved 'except in very special circumstances'.
6. Paragraph 154 of the Framework sets out that the construction of new buildings in the Green Belt is to be regarded as inappropriate development. A 'building' is defined in Section 336 of the Town and Country Planning Act 1990 to include any structure or erection and it therefore includes fences and gates. Fences and gates are not explicitly cited within the exceptions included at paragraph 154.
7. Consequently, the development is inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt. Substantial weight should be given to this harm. The development is contrary to the relevant provisions of CS Policy PMD6, which in summary seeks to protect the Green Belt from inappropriate development.

Openness

8. The Framework indicates that openness is an essential characteristic of the Green Belt and a fundamental aim of Green Belt policy is to keep land permanently open. The openness of the Green Belt has a spatial as well as a visual aspect.
9. The appeal site is surrounded by established built form. The proposed fence would be positioned over an existing brick wall which sits along the boundary of the application site, adjacent to the highway and neighbouring No 8. The openness of the Green Belt is not readily apparent from the appeal site or this part of Rectory Road.
10. Consequently, I find that the proposed development would have a minimal effect on the openness of the Green Belt. Nevertheless, the lack of harm in respect of openness does not overcome or outweigh the harm identified above in respect of inappropriateness.

Heritage assets – special interest and significance

Listed building

11. Post House is a Grade II listed building¹. It dates from the early 19th century. Most notably, it features an early 19th century shop window and details. Later alterations are apparent, including the loss of historic windows.
12. Based on the evidence before me, the special interest and significance of Post House is largely derived from its historic and architectural interests. Important contributors in these regards are the use of traditional construction techniques and materials and surviving historic fabric. Despite later alterations, the building retains a prominent and pleasing architectural form.

¹ List Entry Number: 1308454

13. The enclosed grounds of Post House Court Lodge have an historic, visual and functional connection with the main house. However, the street outside the listed building is where the building is best appreciated, seen in the context of the appeal site. This area forms the immediate setting of the listed building. This immediate setting contributes positively to the special interest and significance of the heritage asset.

Conservation area

14. The appeal property is located within the West Tilbury Conservation Area (the CA).
15. The special interest and significance of the CA is largely derived from the preservation of its historic village core, set within a wider rural setting. Consistent building materials of brick, hung tile and render dominate the village and CA, together with typically low boundary treatments of wall or fencing. The appeal property is positioned prominently on Rectory Road and visible across The Green. It forms part of a collection of relatively modest dwellings in the village centre, stepped down in height from the adjoining Post House. It positively contributes to the townscape and semi-rural character and appearance of the CA, and thereby to its significance as a designated heritage asset.

Heritage – appeal proposal and effects

16. The development involves the erection of a timber fence above the existing brick boundary wall of the appeal site, together with additional brick piers. A timber sliding gate would also be installed within the existing gateway.

Listed Building

17. The proposed fence positioned over the brick boundary wall, together with the proposed brick piers, would appear stark in appearance. It would appear as a dominant feature that is disproportionately tall relative to the modest existing wall, and those that generally exist in nearby front gardens. The cumulative totality of the fence would harm the historic and semi-rural setting of Post House, diminishing the ability to appreciate the significance of Post House and weakening the contribution that the immediate setting makes to the significance of that heritage asset.
18. Ultimately, the proposed development would fail to preserve the setting of the Grade II listed building, Post House. As such, it would harm the significance of this designated heritage asset.

Conservation Area

19. The position, nature and extent of the development is such that it would be highly visible from the public realm, including across the green. In addition, the development would be visible from nearby private vantage points. Unlike listed buildings, and Green Belt, the significance of a CA is dependent upon how it is experienced. The proposed development would form a visually dominant and discordant feature in the CA. It would fail to preserve the character or appearance of the CA as a whole.
20. Taking the above matters into consideration, the proposed development would diminish the positive qualities of the CA as a whole.

Conclusion

21. Overall, I conclude that the proposed development would fail to preserve the setting of the Grade II listed building, Post House, and fail to preserve or enhance the character or appearance of the CA. This is contrary to the requirements of sections 66(1) and 72(1) of the Act. Consequently, the proposed development would harm the significance of these designated heritage assets. This harm is of considerable importance and weight in the planning balance.

Heritage – public benefits and balance

22. The primary outcomes of the proposed development, namely the securing of the appeal property, are private benefits to the appellant and future occupiers. Whilst I appreciate the appellant's desire to provide a private, safe and secure place to live, this does not provide clear and convincing justification for the identified harm to the significance of the listed building and CA.
23. I acknowledge the economic benefits of the proposed development, through the purchase of materials and employment during implementation. However, those benefits would be minimal and would not be sufficient to outweigh the harm I have found.
24. Overall, the weight that I ascribe to the public benefits that accrue from the development is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. Accordingly, the proposed development would fail to preserve the setting of the Grade II listed building, Post House, and fail to preserve or enhance the character or appearance of the CA. The proposed development is contrary to the requirements of sections 66(1) and 72(1) of the Act. The development also conflicts with the relevant provisions of CS Policies CSTP24 and PMD4 which, in summary, seek to protect heritage assets.

Pedestrian and Highway safety

25. The Council's third reason for refusal relates to pedestrian and highway safety. The Council's highway officer specifically requested details of a visibility splay during the course of the planning application. This is not before me.
26. However, there is no evidence before me to demonstrate that the requested visibility splay could physically be achieved at this site. Moreover, the parking area at the appeal site, and access onto the highway, already exist. Accordingly, the access itself would not change from the current situation as a result of the proposed development. I accept that the height of the boundary treatment would increase. However, the road, based on my site observations, is not particularly busy in this location and the use of the access, serving only one property, would not be frequent. There is nothing before me that leads me to conclude that the proposed development would automatically result in a detrimental effect on the free flow of vehicles or pedestrians, or on highway safety.
27. Overall, I do not consider that the proposed development would harm pedestrian and highway safety in this location, in accordance with the relevant provisions of CS Policies PMD2 and PMD9, which in summary seek to ensure that development proposals promote easy and safe access.

Other considerations

28. The Framework is clear that 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 development, is clearly outweighed by other considerations.
29. The appellant sets out that the appearance of the fence, and materials used, are in keeping with the character and appearance of the area, and that other examples exist nearby. I also accept that a higher wall already exists along part of the side boundary of the appeal site. Nevertheless, I have found the overall size and dominance of the fence and brick piers would cause harm to the significance of designated heritage assets. Therefore, I afford this matter limited weight.
30. As set out above, I fully acknowledge the desire of the appellant to improve the security of the site. However, it has not been demonstrated that the development before me is the only realistic solution to this issue and that other, less harmful, schemes could not deliver the same objectives. I therefore give this matter only limited weight.
31. My attention has been drawn to recently permitted works to the adjacent listed building. The appellant considers this to weigh in favour of their scheme. However, from the very limited information before me in respect of that neighbouring scheme, it appears that this relates principally to repairs, with no boundary treatment works. I afford this matter limited weight.
32. I note the objections and disquiet in relation to the scheme. However, this has not led me to an alternative conclusion on the main issues.
33. Substantial weight must be given to the harm to the Green Belt by reason of the inappropriateness of the development. I find that the other considerations in this case do not clearly outweigh the harm identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Green Belt Balance and Conclusion

34. The development is inappropriate development in the terms set out by the Framework. The Framework requires that substantial weight should be given to any harm to the Green Belt.
35. Moreover, the development fails to preserve the setting of the listed building known as Post House and the character or appearance of the CA. The harm to the significance of those designated heritage assets is less than substantial, but still of considerable importance and weight. It is not outweighed by any public benefits.
36. Overall, the harm identified is not outweighed by the other considerations and therefore the very special circumstances necessary to justify the development do not exist. Consequently, I conclude that the appeal should be dismissed.

A Price

INSPECTOR