



Appeal Decision

Site visit made on 10 April 2025

by **P D Sedgwick BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025.

Appeal Ref: APP/J3720/D/25/3358419

Heath Lodge, Ullenhall Lane, Ullenhall, Warwickshire, B95 5PW

- 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 Nicholas Angel against the decision of Stratford-On-Avon District Council.
 - The application Ref is 24/00940/FUL.
 - The development proposed is erection of trellis fence to allow the safe growth of newly planted trees.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development in the banner heading above from the council's decision notice as this gives a more concise description of the development proposed.
3. At the time of my site visit, I saw that the development of the fence was complete. I have dealt with the appeal on that basis.
4. Subsequent to the refusal of permission for the proposed development the Government published its revised National Planning Policy Framework (the Framework) in December 2024. Further minor amendments were published on 7 February 2025, containing corrections and a clarification. The wording of the relevant paragraphs of the new Framework are similar to that of the 2023 version. Therefore, I am satisfied that they do not affect the substantive matters of the appeal and that considering the development against the revised Framework without seeking further comments from the parties on it would not be prejudicial to their respective cases.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, and the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area; and,

- if there would be harm by reason of inappropriateness, and any other harm, whether the harm would be clearly outweighed by other considerations to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether inappropriate development

6. Located within the West Midlands Green Belt, the appeal site relates to a 2 storey detached house set back from a rural lane in substantial grounds. There is a brick wall along the boundary between the appeal property's rear garden and that of the neighbouring house, in front of which there is a row of conifer trees. The fence is located behind the trees close to the boundary wall. It sits on wooden posts that rise to the height of the brick wall, above which are the fence panels which comprise horizontal boards. It is approximately 20m long and 3.6m high. According to the appellant, the fence is intended as a temporary measure to protect the trees for the first 2 growing seasons until September 2025.
7. According to the Framework, inappropriate development in the Green Belt, by definition, is harmful and should not be approved except in very special circumstances. Policy CS.10 of the Stratford-on-Avon District Core Strategy (2016) (CS) sets out exceptions that are not considered inappropriate development which are consistent with paragraph 154 and 155 of the Framework. The development does not fall within any of the exceptions set out in the Framework, or Policy CS.10, and is therefore inappropriate development.

Effect on openness

8. On the appeal site side of the road, Ullenhall Lane is lined by mature trees and hedges preventing views of the wider landscape. Tree and hedge cover is less dense on the opposite side of the road enabling glimpses of irregular shaped fields bordered by mature trees. Houses are generally set back some distance from the road and set in substantial grounds or farmland and with significant gaps between them. Gardens and farmland contain mature trees through which some houses can be seen from the road. However, generally the landscape close to the appeal site is rural, enclosed rather than open, with glimpses of sporadic housing and the wider patchwork of fields beyond.
9. The appeal property fronts on to Ullenhall Lane and is clearly visible from it. However, the fence is in the rear garden and is not visible from the road or from the public footpath opposite the appeal site. The tops of the trees planted in front of the fence are approximately the same height as it, but do not fully screen it. Consequently, the fence is clearly visible from both the appellant's and the neighbour's garden. However, from longer views it is screened by intervening trees and hedges and there is no impact on the visual openness of the Green Belt. Also, given the length of the fence in relation to the garden boundary, and the extent of gardens elsewhere within the area, its spatial impact on openness is negligible. Therefore, there is negligible harm to the openness of the Green Belt.

Character and appearance

10. The fence is not attached to the brick boundary wall, but it extends above it and exceeds 3.5 metres in height. The fence panels would be an acceptable design for a boundary feature if installed at ground level. However, their elevated position

above the existing brick wall has resulted in a structure which is not domestic in character or appearance.

11. Although not visible from the wider public realm, it is highly visible from the appeal site and the neighbouring house and garden from where it appears visually intrusive and out of character. The trees planted behind it are intended to provide a privacy screen between the 2 properties and may eventually exceed the height of the fence, but they are natural features which do not appear out of character in the way that the appeal development does. The development therefore conflicts with Policies AS.10, CS.9 and CS.20 of the CS which require development to be of an appropriate scale and reflect the character of the area.

Other considerations

12. The appellant applied for temporary consent and intends to remove the fence once the trees have become established. Nonetheless, the courts have held that temporary development can be inappropriate development¹ and consequently harmful to the Green Belt to which substantial weight should be given. At the time of my visit, most of the trees had reached the full height of the fence and appeared to be well established, obviating the need for its retention to support their growth. Furthermore, no evidence has been provided to me that less visually intrusive methods, such as supporting stakes, would not have achieved the same aim.
13. The appellant claims that unauthorised development at the neighbouring property, following the refusal of several planning applications, has resulted in overlooking into his house which the fence seeks to address. However, I note that the windows on the neighbouring house face across the appeal property garden and are at an angle that would prevent direct views into the habitable rooms that the appellant is concerned are overlooked. I therefore accord the appellant's justification for retaining the fence little weight.

Other Matter

14. The neighbour has raised concerns regarding the effect of the development on light to their garden. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued this matter further.

Conclusion

15. The development is inappropriate development within the Green Belt which would have a negligible impact on the openness of the Green Belt. In accordance with the Framework, substantial weight should be given to any harm to the Green Belt. It is also harmful to the character and appearance of the area. The other considerations put forward by the appellant carry little weight and do not outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness. Consequently, the very special circumstances necessary to justify the development do not exist. The development does not accord with the development plan and there are no other material considerations to outweigh that finding. Therefore, for the reasons given, the appeal should not succeed.

P D Sedgwick

¹ Europa Oil and Gas Limited v SSCLG, Surrey County Council, Leath Hill Action Group [2013] EWHC 2643 (Admin)

INSPECTOR