

Appeal Decision

Site visit made on 20 January 2014

by David Harmston FRICS DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 January 2014

Appeal Ref: APP/G2245/D/13/2208446

Moorcroft Place, Mapleton Road, Westerham, Kent TN16 1PS

- 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 Hyde Park Residence Limited against the decision of Sevenoaks District Council.
 - The application (Ref SE/13/00360/HOUSE) was refused by notice dated 16 August 2013.
 - The development proposed is new fencing and CCTV camera installation (retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for new fencing and CCTV camera installation (retrospective) at Moorcroft Place, Mapleton Road, Westerham, Kent TN16 1PS in accordance with the terms of the application (Ref SE/13/00360/HOUSE), dated 6 February 2013, subject to the following conditions:
 - (1) Within three months of the date of this permission details of signs to inform the public of the presence of the cameras situated adjacent to the primary and secondary entrances to the property, and to the south-west of the stables, shall be submitted for approval to the Local Planning Authority. These details shall show the locations of the cameras, including a map of their positions. Within three months of the date of the written approval of these details, the signs shall be erected and thereafter retained so long as the cameras hereby permitted remain in situ.
 - (2) The LED camera lights shall only be used when the security alarms are triggered or for routine maintenance and testing.
 - (3) Within three months of the date of this permission, openings measuring 220mm by 220mm at ground level shall be installed at intervals of every 5.0-metres along the length of the fence hereby permitted to enable wildlife to pass through. These openings shall remain in place for as long as the fence is in situ.
 - (4) Within six months of the date of this permission, and in accordance with details to be submitted to and approved in writing by the Local Planning Authority, a mixed, native-species hedge shall be planted along the exterior of the fence hereby permitted together with the Thuja Picata screening to be planted around the camera posts. If within a period of five years from the date of their planting, any trees, shrubs or plants die,

are removed or become seriously damaged or defective, replacement trees, shrubs or plants of the same species and size as those originally planted shall be planted in the same place in the next planting season.

The Site and the Development

2. Moorcroft Place is a substantial country house set within large grounds in an isolated countryside location to the south-east of Westerham. There are a number of ancillary buildings within its grounds including stables, guest accommodation and offices. The property is approached by way of a long driveway leading upwards and eastwards through a gated entrance from Mapleton Road, close to its junction with Hosey Common Road (B2026).
3. The application sought retrospective permission for the erection of a security fence and the installation of a number of CCTV cameras.¹ The fence is constructed in a dark green, powder-coated, steel mesh and is 2.2-metres high. It runs around a section of the northern and eastern site boundary, inset therefrom, for a length of about 290-metres. The posts supporting the CCTV installations are painted black and vary in height from 3.5-metres to 7.5-metres. These are eight in number and are sited at various strategic points just inside the fencing.
4. The appellant has stated that the cameras numbered 2 to 7 and 9 on the plans are almost entirely within the boundary of the property and that those numbered 1 and 8A benefit from permitted development rights. All the cameras except those by the gate (1 and 8A) can be rotated. They are only intended to view the site itself and are not for use to observe any individuals or activities taking place outside the property.
5. The appellant states that the fencing has been designed to provide good visibility through it and it is not a strong visual barrier. Small openings would be formed in it at ground level to enable wildlife to pass through. New planting would be undertaken along the fence line in the form of a mixed native-species hedge on its outer side to a height of about 1.8-metres. The CCTV posts would be screened by planting three Thuja Plicata specimens next to each pylon. These are fast growing and would quickly screen these structures.
6. In support of the development the appellant states that the occupants of the property are a family with two young children. They are internationally recognised and have a very high public profile. Media and public interest is substantial and undesirable attention to the family is experienced on an on-going basis. Being the target of crime is distressing and a very real fear. Theft, or possibly even kidnap by organised professional bodies, is a constant threat.
7. Various attempts have been made to gain unauthorised access to the property in the past. Unknown individuals and members of the Press have been accosted and intercepted when they were found to be loitering in the adjoining roads close to the property. The risks to the family are very real and the security measures necessary to counter the problems are, however regrettable, essential. Similar steps have been found to be necessary in comparable circumstances with other individuals and families.

¹ Work to erect the fence and install the cameras commenced in July 2012

Main Issues

8. The appeal site is located within the Green Belt. I therefore regard the main issues in the appeal as being:
- (1) Whether the proposal constitutes an inappropriate form of development within the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy.
 - (2) The effects of the development on the openness of the Green Belt and the purposes of including land within it.
 - (3) The effects of the development on the character and appearance of the area having regard to the location of the site within the Kent Downs Area of Outstanding Natural Beauty (AONB).
 - (4) If the development is inappropriate to the Green Belt for the purposes of the Framework and development plan policy, whether the harm by reason of that inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to exist to justify the development.

Reasons

Whether the proposal is inappropriate development

9. As the Framework makes clear, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of the Green Belts are their openness and permanence.² Inappropriate development within the Green Belts is harmful by definition and should not be approved except in very special circumstances.³ New buildings⁴ should be regarded as constituting inappropriate development unless the proposals are for one of a number of specified exceptions. None of these include the type of development the subject of this appeal.⁵
10. The appellant asserts that the development is not inappropriate development within the Green Belt. This is because the fencing and cameras are sited well within the perimeter of the site, close to an existing fence and do not comprise 'buildings' within the meaning of the Framework. This interpretation has been followed in a comparable appeal case.⁶ Only the cameras at the gates, which are not part of the appeal development, are visible from public vantage points.
11. Notwithstanding the appellant's views on this matter, the development comprises a new building or buildings within the Green Belt. The definition of a building is set out at Section 336 of the Act as including '*any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.*' I therefore regard the development as comprising a building within the Green Belt to which none of the exceptions within the Framework for it being not inappropriate apply. The development is

² National Planning Policy Framework – paragraph 79

³ National Planning Policy Framework – paragraph 87

⁴ The term 'new buildings' includes any structure or erection and would include fencing and CCTV cameras

⁵ National Planning Policy Framework – paragraphs 89 - 90

⁶ Ref APP/W5780/D/11/2148238

therefore harmful by definition and, in accordance with paragraph 87 of the Framework, should not be permitted except in very special circumstances.

Effect on Openness and the Character and Appearance of the Area

12. Due to its perforate form of construction and its colour, and when observed against the backdrop of the adjacent mature trees and other vegetation, the structure is visually subsumed against its surroundings. This effect is assisted by the changes in level at certain parts of the site so that, being at a lower ground level to that to the north at the rear of the main house, as an example, the visual impact is minimal. Visually, the fence does not constitute a strong barrier to visibility.
13. The majority of the development is not visible from any public vantage points. The CCTV installations, whilst higher than the fence, are nevertheless similarly unobtrusive and do not impact adversely on the appearance of the area to any significant extent. For these reasons, the development has had very little negative impact on the openness of the area.
14. The site lies within the AONB. Policy LO8 of the Sevenoaks District Council Core Strategy (2011) states that the countryside will be conserved and the distinctive features that contribute to the special character of the landscape and its biodiversity will be protected and, where possible, enhanced. The Kent Downs AONB Unit Landscape Design Handbook states that 'intrusive fencing should be avoided'. Where security fencing is required it should be screened with suitable native planting to reduce its visual impact.
15. With the mature, dense vegetation in and around the site and the additional screening that could be undertaken, the effect of the development on the landscape and the AONB would be minimal. I consider that the development complies with the provisions of the Framework in these respects.⁷
16. The public footpath to the south of the property lies adjacent to the Historic Park and Gardens of Chartwell. Because of the existing planting on the site, and the opportunities for more landscaping, the Council does not consider that the development would have a detrimental effect on the setting of the listed park and garden. I agree with this assessment.
17. Drawing these strands together, my conclusion is that neither the fence nor the cameras have any materially damaging effect on the openness of the site or the character and appearance of the area. There is therefore no conflict between the development and policies LO8 and SP1 of the Core Strategy.

Other Considerations

18. The reasons for the perceived need for the development for security reasons are set out above. From the information before me I accept that there are substantial grounds for the occupants of the property to feel that steps of the kind taken by this development are necessary in the interests of their privacy and security. I do not believe that the measures that have been employed are an over-reaction to their circumstances or are unnecessary. I accept that the fencing and CCTV installations represent a proportionate and reasonable

⁷ National Planning Policy Framework – paragraph 115

response to the situation which has developed in terms of potential trespass and other criminal activities.

Other Matters

19. A number of other matters in relation to this appeal have been raised both by the Council and other interested parties. Kent County Council refers to the presence of the bridleway (SR375) and the public footpath (SR365) which run close to the boundaries of the site. Whilst no objection in this respect is raised to the development, signs should be erected so that walkers and riders would be aware of the presence of the cameras.
20. Neither Kent County Council Ecology nor Natural England object to the development so long as a precautionary approach is taken in relation to ecology and wildlife interests such as by the provisions of openings at ground level in the fencing to facilitate the free passage of various species. There is therefore no infringement of policy SP11 of the Core Strategy.
21. No objections have been put forward by the Council on conservation or arboricultural issues. Westerham Town Council objects to the proposals on the grounds of the unsympathetic character of the development and its negative and insensitive impact on this attractive landscape. Other objections have been made regarding the effect of the development on the landscape and the absence of any very special circumstances to justify it.

The Balancing Exercise

22. The development is inappropriate to the Green Belt and is therefore harmful by definition. As the Framework advises, substantial weight should be attached to that harm. To overcome that harm very special circumstances must exist to outweigh that harm, and any other harm, which the development would cause.
23. In my conclusion, and having regard to my conclusions above, there is no other harm, such as to the openness of the area, or to its character and appearance, that would be created by the development. The development does not have any negative impact on local amenities, archaeological potential, the nearby site of Conservation Interest, or the listed park and garden at Chartwell. Such harm as might have been caused to the woodland has already occurred when the fence was erected.
24. In my conclusion the other considerations which I have identified relevant to this matter are of very substantial weight. As a matter of balance my overall conclusion is that they constitute an example of the very special circumstances necessary to justify the development and clearly outweigh the harm that would be caused to the Green Belt because of its inappropriateness and I shall allow the appeal.

Conditions

25. I have considered the conditions referred to by the Council in the light of the guidance set out in Circular 11/95 (*The Use of Conditions in Planning Permissions*), all the circumstances of this case and the fact that the development has been completed. I agree that it is reasonable and necessary

for appropriate signs to be erected in suitable locations advising users of the public footpaths that CCTV cameras are in operation, in the interests of privacy. The LED camera lights should only be operated when they are triggered or for maintenance and testing to minimise light pollution within the AONB.

26. The openings at ground level within the fencing should be provided and retained to allow wildlife to have free movement. In the interests of visual amenity, and to further screen the fencing and cameras as far as possible, the planting of new hedging between the fence and the site boundary, and in positions adjacent to the camera pylons, is reasonable and necessary. There is no need to specify the approved plans as the work has been completed except for matters which are the subject of other conditions.

Summary of Conclusions

27. For the reasons I have given I consider that the development, whilst inappropriate to the Green Belt, should be permitted because the harm that is caused by reason of the inappropriateness, and any other harm, is clearly outweighed by other considerations.
28. I have considered and afforded weight in the planning balance to everything else that has been raised in relation to this appeal but nothing is of sufficient weight to override my conclusions above and the reasons for them. Therefore, and for the reasons set out above and subject to conditions, I conclude that this appeal should be allowed.

David Harmston

Inspector

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