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## Appeal Decisions

Site visit made on 30 May 2022

**by Elizabeth Pleasant BSc (Hons) DipTP MRTPI**

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

**Decision date: 1 July 2022**

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### **Appeal A Ref: APP/R4408/W/22/3290238**

**3 Fieldhead Manor, The Granary, Elmhirst Lane, Dodworth, Barnsley S75 4LD**

- 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 Mrs I Wainwright against the decision of Barnsley Metropolitan Borough Council.
  - The application Ref 2021/1075, dated 5 August 2021, was refused by a notice dated 20 October 2021.
  - The development proposed is construction of boundary fence.
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### **Appeal B Ref: APP/R4408/Y/22/3290239**

**3 Fieldhead Manor, The Granary, Elmhirst Lane, Dodworth, Barnsley S75 4LD**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mrs I Wainwright against the decision of Barnsley Metropolitan Borough Council.
  - The application Ref 2021/1258, dated 25 August 2021, was refused by a notice dated 20 October 2021.
  - The works proposed are construction of boundary fence.
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## **Decisions**

### **Appeal A**

1. The appeal is dismissed

### **Appeal B**

2. Since the construction of the boundary fence does not require listed building consent, no further action will be taken in connection with this appeal.

## **Procedural Matters**

3. I have dealt with other appeals on this site (APP/R4408/F/22/3292758, APP/R4408/W/22/3292126 & APP/R4408/Y/22/3292127), these appeals are the subject of separate decisions.
4. Appeal B relates to the decision of the Council to refuse listed building consent for the construction of a boundary fence. Section 7 of the Planning (Listed Building and Conservation Areas) Act 1990 relates to the control of works in respect of listed buildings. It provides that no person shall execute or cause to

be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest unless the works are authorised. From the evidence before me, including observations on my site visit, the boundary fence that has been erected is not physically attached to the appeal property. Consequently, the appeal property which is identified as 'Cottage adjoining to north of Field Head Farmhouse' in the list description, has not been physically extended or altered by the construction of the boundary fence which partially encloses its rear garden area. The boundary fence does not therefore require listed building consent, and for this reason I propose to take no further action in connection with Appeal B.

5. Reference is made in the Council's decision to refuse planning permission for the boundary fence (Appeal A) to a Green Belt policy in the Barnsley Local Plan, 2019 (LP). However, an explanation of the impact of the fence on the Green Belt is not included. The Council has subsequently confirmed that the appeal site lies within the Green Belt and both parties have been given the opportunity to make comments on the proposal's impact on the Green Belt, including in relation to National Green Belt Policy. I have had regard to those comments in making my decision, and in doing so I am satisfied that no party has been prejudiced.

### **Main Issues (Appeal A).**

6. The main issues in this case are:
  - Whether 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 on the openness of the Green Belt;
  - The effect on the setting of the listed building; and
  - Is the harm by reason of inappropriateness, and any other harm, clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

### **Reasons**

#### *Inappropriate development*

7. The boundary fence is situated in the Green Belt. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate development unless it falls into one of the listed exceptions.
8. Section 55(1) of the Town and Country Planning Act 1990 (the Act) includes in the definition of the word "development", the carrying out of building, engineering, mining or other operations in, on, over or under land. Section 336(1) of the Act states that a "building" includes "any structure or erection". Furthermore, it is established case law that to constitute "a building" for the purposes of the Act there are three specific tests to consider, namely permanence, size, and physical attachment. However, no single factor is decisive in the assessment, which is a matter of fact and degree in each case.
9. In this case the fence is fixed to the ground and intended to be a permanent fixture. It extends for a considerable length and to a height of approximately

1.8metres. It could not therefore be considered small scale. Furthermore, the structure by reason of its solidity has a significant physical presence. Therefore, in terms of the three tests, I consider that because of its size, physical presence and degree of permanence, a building operation has occurred within the meaning of development under section 55(1) of the Act.

10. The fence is a building which does not fall within any of the listed exceptions within paragraph 149 of the Framework. I therefore conclude that it is inappropriate development in the Green Belt.

#### *Openness*

11. Paragraph 137 of the Framework states that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belt are their openness and permanence.
12. The fence is a substantial structure which extends for a considerable length along two boundaries of the appeal site. By reason of its height and solidity the fence has a significant enclosing effect, thus reducing the openness of the Green Belt. The harm caused by loss of openness is moderate.
13. I conclude that the development reduces the openness of the Green Belt.

#### *Setting of the listed building*

14. The appeal property forms part of a collection of former farm buildings previously associated with Fieldhead Farmhouse. They are situated adjacent to Silkstone Golf Course, in an area of open countryside on the edge of the settlement of Dodworth.
15. From the evidence before me, including the list description and observations on my site visit, the significance of the building as a heritage asset is largely derived from its age, historic use and architectural features. Those features include its vernacular form and traditional building materials, including cruck trusses, all of which contribute to the significance of the heritage asset. Considering the historic use of the building, its visual and physical relationship to the adjoining farmland makes an important contribution to the setting of the listed building and to the asset's significance.
16. The fence is a substantial solid structure which encloses in part the rear garden of the appeal property. It has a strong domestic appearance which contrasts sharply with the local vernacular and the building's rural setting. The scale, including the length and height of the fence, obscures views of the building from the open countryside to the North, and as such it has a harmful effect on the setting of the appeal building.
17. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural interest which it possesses. In addition, the Framework requires that great weight should be given to the conservation of heritage assets.
18. For the reasons set out above, I conclude that the fence fails to preserve the setting of the listed building identified as the 'Cottage adjoining to north of Field Head Farmhouse'. It would cause less than substantial harm to the significance of the heritage asset. This harm is not outweighed by any public

benefits. The fence is contrary to the policies in the Framework which seek to conserve and enhance the historic environment. In addition, there would be conflict with the design and heritage aims of Policies D1, HE1 and HE3 of the LP.

#### *Other Considerations*

19. The fence serves to improve privacy for the occupiers of the appeal property and the adjacent property. However, screen planting would also provide privacy and would be less visually intrusive. I therefore give this consideration very little weight.

#### *Green Belt Balance*

20. I have found that the fence is inappropriate development in the Green Belt and by definition it is harmful to the Green Belt; harm which the Framework indicates should be given substantial weight. Added to which is the harm to openness and to the setting of the listed building.
21. For the appeal to succeed, the weight of the other considerations must clearly outweigh the totality of the harm arising. I have given little weight to the privacy consideration cited in support of the proposal. Therefore, the harm by reason of inappropriateness, and additional harm identified, are clearly not outweighed by other considerations. Very special circumstances do not exist to justify the development. The development does not comply with national planning policy in the Framework to protect the Green Belt.

#### **Conclusion**

22. For the reasons given above and taking into account all other matters raised, the development is not compliant with the development plan and no considerations merit a decision other than in accordance with the development plan and the Framework. I conclude that Appeal A should be dismissed.

*Elizabeth Pleasant*

INSPECTOR