

Appeal Decision

Site visit made on 10 October 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 3 November 2016

Appeal Ref: APP/G5180/D/16/3155340

3 Greenoak Rise, Biggin Hill, Bromley TN16 3RL

- 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 Mr Steven Miles against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/00681/FULL6, dated 11 February 2016, was refused by notice dated 10 May 2016.
 - The development is described as boundary fence erection not exceeding 2 metres.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application form states that work on the boundary fence started in August 2015 and at the time of my visit I saw that vertically boarded timber fencing has been erected along part of the Lusted Hall Lane frontage and along Upper Drive. However as the development is only partially completed and as I cannot be certain that the fencing on site is fully in accordance with the submitted plans, in reaching my decision I have assessed the development as shown on the submitted plans.

Main Issues

3. The main issues are the effect of the development on:
 - The character and appearance of the area;
 - Pedestrian and highway safety.

Reasons

Character and appearance

4. The appeal site comprises a rectangular shaped piece of land forming part of the rear garden of 3 Greenoak Rise. It adjoins and has a long frontage along Lusted Hall Lane, a relatively narrow road which is sloping near to the site. Part of the site also fronts onto, though is slightly set back from Upper Drive. In the vicinity of the site and on the same side of the road Lusted Hall Lane is characterised by residential properties set back from the road and mainly either open to the road with frontage parking or with low level fencing set behind
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mature landscaping. The opposite side of the road is largely undeveloped, has a semi-rural character and is largely characterised by open paddocks and belts of mature landscaping, some of which is adjacent to the road. Upper Drive is an unmade road with extensive roadside landscaping near to the appeal site, although there are some examples of timber fencing near to and visible from the road along Upper Drive.

5. The submitted plans show that 18 separate 1.9 metre high solid timber panels would form the length of the fence along Lusted Hall Lane. Though the height of the fence would be staggered to reflect the slope in the road, the fence would nevertheless have a very solid appearance over a considerable length and would be an imposing feature immediately adjacent to the road. It would be out of keeping with the more open and verdant character of the immediate surrounding area and would be a harmful and incongruous feature in the streetscene.
6. In reaching my decision I have had regard to the fact that the appeal site is not located in a designated area and that a lower fence could be erected without requiring planning permission. Whilst this would also affect the character and appearance of the area, I consider that the additional height of the 1.9m high fence would be materially more harmful. I do not consider that the visual impact of the fence could be adequately mitigated by it being painted or that any future growth of existing vegetation in front of the fence would make its appearance acceptable given that the height and appearance of the vegetation may change over time whereas the fence is a more permanent structure.
7. I note that the fence is similar in height and design to existing fences separating the rear gardens of Nos 1, 3 and 5 Greenoak Rise, though these side boundary fences are less prominent. I have also had regard to the examples of similar fences along Lusted Hall Lane referred to by the appellant. However I am not aware of the details or particular circumstances relating to these examples and note that they are not generally in the immediate vicinity of the site. In any event I must determine the development before me on its own merits.
8. Taking the above matters into consideration, I conclude that the development would have a significant adverse effect on the character and appearance of the area. It is therefore contrary to policies BE1 and BE7 of the London Borough of Bromley Unitary Development Plan (UDP). These policies seek, amongst other things, development of a high standard of design and layout and to resist the erection of high or inappropriate enclosures where they would erode the open nature of the area or would adversely impact on townscape character.

Pedestrian and highway safety

9. The submitted plans appear to show the fence set back slightly from the appeal site boundary and from the edge of the road on Lusted Hall Lane. At my site visit I noted that there is a fairly narrow raised area of ground immediately in front of the section of fencing that has already been erected separating it from the road edge. I also noted that close to the appeal site Lusted Hall Lane is quite narrow and does not have pavements and at the time of my visit it was reasonably busy with traffic.
10. It appears that prior to the erection of the fence the appeal site boundary with Lusted Hall Lane was marked by mature vegetation some of which is still

evident. The presence of the vegetation and the difference in levels between the appeal site and Lusted Hall Lane adjacent to the road means that the appeal site would not have provided any safe refuge for pedestrians walking along the road. Consequently the fence would not result in any detriment to pedestrian safety.

11. I note the concerns of the Council to the position of the fence relative to the road having regard to the possibility of it being struck by vehicles and the impact of this on highway safety. Reference has been made to various guidance requiring the fence to be set back by 450mm from the carriageway edge though I have not been provided with copies of any such guidance. I have however been provided with the consultation response from the Council's highway engineer dated 15 March 2016 and he does not raise any objections to the position of the fence relative to the road provided that the fence does not obstruct visibility from Upper Drive.
12. In the absence of any substantive evidence to the contrary, having regard to the submitted plans which show the fence set back from the appeal site boundary adjacent to Lusted Hall Lane and from my observations on site I am satisfied that the fence would not be likely to be struck by vehicles using the road or that it would have any significant adverse impact on highway safety.
13. Taking the above matters into consideration, I conclude that the development would not adversely affect pedestrian or highway safety. It therefore complies with Policy T18 of the UDP which seeks to ensure that development does not adversely affect highway safety.

Other Matters

14. In reaching my decision I have some sympathy for and have had regard to the appellant's desire to create a safe, secure and private garden area for his family and note that it is stated that the previous foliage blocked light to the appeal site and surrounding properties. Whilst I acknowledge that a lower fence would provide less security and less privacy to the rear garden, I do not consider that the appellant's need for the fence outweighs the harm that I have identified.
15. Though I note the appellant's willingness to set the fence further back away from Lusted Hall Lane if necessary, I must determine the development as shown on the submitted plans. I have had regard to the fact that there were no objections from neighbours to the application and that the Council Planning Officer was allegedly unwilling to co-operate with the appellant. However these are not reasons to grant planning permission for a development that would be harmful to the area.

Conclusion

16. The development would not adversely affect pedestrian or highway safety. However it would have a significant adverse effect on the character and appearance of the area.
17. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR