



Appeal Decision

Site visit made on 20 June 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2019

Appeal Ref: APP/F5540/W/19/3224678

Land to the rear of Buttermere Close, off Westmacott Drive, Feltham, Middlesex TW14 9QN

- 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 Adam Abu Warda against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 01536/B/P1, dated 26 September 2018, was refused by notice dated 8 February 2019.
 - The development proposed is application for the erection of 2.5m high secure fencing with metal gate, clearance of trees within the fence boundary area and the change of use of the land to a vehicle storage area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is retrospective, as was evident from my visit. The fence that has been erected appears to be of the design broadly shown on the submitted plans, although the metal gates were hidden behind plastic sheeting and part of the fence had been painted white. I saw white vans parked on the land and tyres piled up. Notwithstanding what I have seen on site, I have considered the appeal on the plans before me and have dealt with the appeal on its merits.
3. The appellant has appealed an enforcement notice in relation to the site. This is the subject of a separate Decision.

Main Issues

4. The main issues are:
 - The effect of the proposed use on the character and appearance of the area and living conditions of neighbouring properties (Nos.5, 6 7 Buttermere Close and Nos.1-6 Invicta Close),
 - The effect of the proposed fence on the character and appearance of the area, and
 - The effect of the proposed use on highway safety, with particular regard to means of access and visibility.

Reasons

5. The appeal site is a triangular parcel of currently overgrown land sited within a residential estate adjacent to the rear garden boundaries of properties on Oak Way. To the north, the site is bounded by the turning head and children's equipped play area on Invicta Close. A tarmac public footpath runs along the eastern boundary of the site and in close proximity to properties and their rear gardens of Buttermere Close (Nos.5, 6, and 7). It links with another wider footpath leading from the site to Westmacott Drive. The paths are part of a designed network of footpaths through the estate linking a number of small cul-de-sacs and Westmacott Drive.
6. There are timber garden fences in the area including at the rear of Nos.5, 6, and 7 Buttermere Close. Most fences are timber panels with concrete or timber posts up to about 2m in height. There is a long section of domestic timber panelled fencing along the footpath that runs along the boundary with the block of flats Nos.1-6 Invicta Close.
7. The proposal is for the change of use of the land for the storage of vehicles, and the erection of a 2.5m high fence, made from ply-wood sheeting panels, with metal gates along the eastern site boundary. The fence would be erected along the back edge of the footpath. Vehicular access to the site would be gained off Westmacott Drive and along a wider section of tarmac public footpath. Where the footpath meets the site access, the footpath continues left to run along the site boundary.

The principle of the use

8. There appears to be some discrepancy regarding the scale of the use. Section 10 of the application form clearly states that up to 20 vehicles will be parked on the site. Yet in his planning and appeal statement the appellant says there will be approximately 10, if that at any one time. The appellant advises in his statement that the vehicles will be his own and only he would visit the site a couple of times a week, taking out one or two vehicles at a time, returning them a few days later. As such he says the only activity on site will be to open the gate, start the engine, drive out to the main road and lock the gate, and vice versa.
9. Whilst the appellant describes the condition of the land before he acquired it, including it being susceptible to fly tipping, neither party has provided any substantive evidence to persuade me that the proposed use would be significantly better. I find the nature of this use, which is more akin to an industrial use, would be incongruous for a site surrounded by dwellings and public footpaths in the heart of a residential area. As such it would harm the character and appearance of the area.
10. Whilst the storage of cars *per se* on the land may be a quiet activity while the cars are stored, getting them on and off the site would require vehicles to be taken along the footpath off Westmacott Way. They would pass the rear of properties Nos. 5, 6 and 7 Buttermere Close and the block of flats Nos.1-6 Invicta Close that all back onto the pathway. The comings and goings of vehicles along this pedestrian route would create noise and disturbance to residents. This would cause harm to the living conditions of these residents.

11. Whilst conditions could be imposed to limit the number of vehicles on site and restrict the hours of vehicle movements and when the site could be used, this would not remove the comings and goings nor the inappropriate use.
12. To conclude, the proposed use would harm the character and appearance of the area and harm the living conditions of nearby residents. Accordingly, the proposal would be contrary to Policies CC1, CC2 and EQ5 of the Local Plan (LP) adopted 2015. These collectively seek to ensure that development responds to the area's character and that poor quality design is refused, that development has a positive impact on the amenity of residents and that noise disturbance is minimised.

Character and appearance

13. The fence presents a long continuous length along the back edge of the footpath and is unduly prominent. This is exacerbated by the metal gates and the plywood sheeting that create a more industrial or commercial appearance of something more commonly found around development sites or as temporary hoardings to screen a site or make it safe, rather than one suited to a residential area. The appellant has submitted similar fencing examples, but most are of the industrial/commercial nature described above. In any event I must consider the appeal proposal on its own merits.
14. Furthermore, the height of the fence, at approximately 2.5m, is taller than nearby fences and when in close proximity to the edge of the footpath results in a visually overbearing feature. Part of the fence has been painted white, although not shown on the submitted plans, and I observed that this adds to the visual prominence of the fence. The fence is also leaning over in parts and the gates have been covered in plastic sheeting. Overall the boundary fencing is of a poor design and quality.
15. I find the fence is unduly prominent, over bearing, incongruous and out of keeping in the street scene. Therefore, it harms the character and appearance of the area. It would be contrary to LP Policies CC1 and CC2 that seek to promote high quality design and ensure that development responds to the area's character.
16. It is not unreasonable for the appellant to want to secure and screen his site. However, the type of boundary fencing proposed and which has been erected is inappropriate for the reasons above.

Highway safety

17. The appellant proposes to access the site by driving vehicles along a public footpath off Westmacott Drive. There is an existing dropped kerb that serves an existing single garage but it does not align with the footpath. As such, vehicles would have to either mount the kerb or drive across part of the driveway and grass.
18. Furthermore, in a residential area there is a high likelihood of pedestrians, including children, and those with pushchairs or impaired mobility using the immediate network of paths. They would not be expecting to see or encounter vehicles, regardless of whether the area is generally quiet as the appellant contends. I acknowledge that the appellant would drive with due diligence and would not run over pedestrians deliberately. Nevertheless, the use of the public footpath as a means of vehicular access to the site would introduce an

unacceptable potential conflict between pedestrians and vehicles, particularly as the footpath is not wide enough for both vehicles and pedestrians to use and would necessitate pedestrians, and those with mobility issues to step onto the grass if a car was approaching.

19. In addition, there is impeded visibility where the footpath joins the pavement at Westmacott Drive, due to a tall brick boundary wall up to the pavement edge and a hedge the other side of the garage. As such a driver would not be able to see pedestrians or other motorists approaching when joining Westmacott Drive until he was on the pavement. Similarly, pedestrians would have limited visibility of vehicles exiting onto Westmacott Drive, and would not be expecting to see them. This would introduce a further unacceptable conflict between vehicles and pedestrians. Whilst visibility from the existing garage driveway is somewhat limited towards the adjacent hedge, this is an existing situation and the driveway is not a public footpath, unlike with the appeal proposal.
20. Whilst there do not appear to be any comments from the Highway Authority, in my view the access arrangement is wholly unsuitable for a residential area. I therefore conclude that the proposed access route to the site would result in potential conflict with pedestrians and vehicles that would be harmful to highway safety.
21. Accordingly, the proposal would be contrary to LP Policy CC2 that seeks to ensure development responds to the surrounding area and creates places that are easy to understand, navigate and feel safe, with particular focus on pedestrians and cyclists. LP Policy EC2 is more about developing a sustainable local transport network with links to public transport and parking and does not seem directly relevant. However, the policy does require details of proposals for vehicle crossovers. As the proposal requires gaining access from a road over an inadequate dropped kerb and no improvement details are provided, there is some conflict in so far as it relates to vehicle crossovers.
22. Reference to parking arrangements in the reason for refusal has limited relevance for this appeal as the proposal is for vehicle storage. Therefore Policy 6.13 of the London Plan is not directly relevant.
23. It is not unreasonable for emergency vehicles or Council maintenance vehicles to use the footpaths for carrying out their various duties, but this would likely be infrequent. Regardless of the footpath's construction, the route to the appeal site is part of a network of footpaths designed for pedestrian use rather than for vehicles. I note the appellant considers the pedestrian experience in the area to be poor, alluding to anti-social behaviour, but that is not justification to introduce a highway danger.
24. The red line that demarcates the application site does not include the access route along the public footpath. It is not clear from the evidence before me if the appellant has a right of vehicular access over the footpath. Regardless, there are highway safety and other issues that prevail.

Other Matters

25. I acknowledge the appellant's concerns with the Council's handling of the application, but in reaching my decision I have been concerned only with the planning merits of the case.
26. A number of nearby residents raise a series of other concerns about the proposal, but in view of my conclusions on the main issues there is no need for me to address these in the current decision.

Conclusion

27. For the reasons set out above, having regard to all other matters raised, I conclude that the appeal should be dismissed.

K Stephens
INSPECTOR