
Appeal Decision

Site visit made on 14 November 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 April 2020

Appeal Ref: APP/F5540/C/19/3224774

Land to the rear of Buttermere Close and Westmacott Drive, Feltham, London TW14 9GN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Adam Abu Warda against an enforcement notice issued by the Council of the London Borough of Hounslow.
 - The enforcement notice, numbered CUCO/2018/00378, was issued on 25 February 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the use of the land as vehicle storage (B8 Use Class) and the erection of boundary fencing.
 - The requirements of the notice are:
(1) Cease the use of the land for the purpose of storing vehicles; (2) Remove all vehicles and associated paraphernalia from the premises; (3) Remove the unauthorised fencing; and (4) Remove all resultant debris from the Land.
 - The period for compliance with the requirements is 2 months after the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Appeal on Ground (a)

Main Issues

2. The main issues in the appeal are:
 - The effect of the development on the character and appearance of the area;
 - The principle of the use of the land for vehicle storage and its effect on the living conditions of neighbours having particular regard to noise and disturbance; and
 - The effect of the use of the land on highway safety.

Reasons

Character and Appearance

3. The site comprises a triangular parcel of land within a residential estate, characterised by a number of short culs-de-sac running from the main estate road, Westmacott Drive. The site is part of the residential estate of which Buttermere Close forms a part, with Nos. 5 and 6 Buttermere Close lying close to the site. These dwellings are separated from the site by a public footpath that runs from Westmacott Drive and links into a network of paths that run through the residential estate. A timber fence separates the site from another cul-de-sac, Invicta Close, to the north. To the west, the site backs onto the rear gardens of residential properties in Oak Way.
4. The land is mainly grassed with no hard surfacing, and a few small trees at its southern end. I saw that there was a fairly large pile of vehicle tyres at the southern end of the site, together with car wheels and a car door. In addition, amongst other things, there was a variety of fence panels, concrete posts, wood and concrete blocks on the land.
5. The land has been enclosed through the erection of a fence made from large timber panels of the type often seen surrounding construction sites. It is some 2.5m high. A metal gate topped with barbed wire, at its northeast corner, provides access to the site. This gate opens onto the footpath to Westmacott Drive. The site lies at the north end of the footpath that runs between the residential properties in Oak Way and Buttermere Close, before continuing to Westmacott Drive. Trees along the footpath, together with the associated undergrowth, provide a verdant frame to this development and contribute to the relatively spacious character of the area. Although the site does not lie within the Metropolitan Green Belt or any designated townscape or heritage area, the site was clearly part of a planned landscaped framework for the estate.
6. The use of the land for the storage of vehicles is screened by the fence that has been erected. Therefore, this use presently causes no harm visually. However, the fence sits in stark contrast to its setting. It has the appearance of a fence found enclosing a construction site or commercial premises, in the manner of the fences shown in the photographs in Appendix A to the appellant's statement, rather than a small parcel of land on a residential estate. It has been painted white in part and left unpainted elsewhere. Whilst the panels on the east side match in terms of their size, on the south elevation they are of a mixture of sizes. It is roughly put together and, overall, it lacks quality. The enclosure of the site diminishes the importance and effectiveness of the landscaped area that plays an important role in 'softening' the estate. By reason of its siting, height, design and materials, the fence causes harm to the visual qualities of this part of the landscaped setting of the houses on the estate.
7. Although many properties in the area are surrounded by timber fences, none I saw were as high as this one. Furthermore, all of these were of a good quality in terms of materials and finishes. Painting the fence a uniform colour and reducing its height to that akin to neighbouring fences would not overcome the harm to the character and appearance that I have identified.

8. I note comments that the previous owner neglected the land and that it might have been used for fly-tipping and other anti-social activities. Indeed, I saw evidence of fly-tipping in the lane to the south of the site. However, there are other ways in which this might be addressed that would be less harmful than the fence that has been erected and the use that the land has been put to. Similarly, I am not convinced that the erection of the fence and use of the land are the only way in which security to properties in Oak Way could be improved. Whilst I understand the support that the occupiers of those properties give to the development, this does not outweigh the harm I have identified.
9. I appreciate that the appellant might wish to enclose land in his ownership. However, for the above reasons I find that the use of the land significantly harms the character of the area, whilst the fence causes significant harm to its character and appearance. The development is therefore contrary to the terms of LP Policies CC1 and CC2 that aim to refuse poor design and provide high quality urban design.

The principle of the use of the land and living conditions

10. The appellant argues that all vehicles on the site would be his and there would be a maximum of ten of these on the site at any time. Further, he states that he would only visit the site a couple of times per week, taking out just one or two vehicles and returning them a few days later. Although it is unclear from the evidence whether the storage would be related to any business, I find it to be akin to a commercial use of the land. However, and notwithstanding this, the introduction of the storage use, even in the fairly low-key level proposed, would be at odds with the residential character of the area. Its incongruity would be exacerbated by the site's location set well back from the main estate road amongst dwellings.
11. Whilst the storage of vehicles might be a 'quiet use', vehicles accessing and exiting the site along the footpath would pass close to properties in Invicta Close and Buttermere Close. Sound from these vehicular movements would result in noise and general disturbance to the occupants of those properties. Furthermore, there would be little to stop any person storing vehicles on the site from carrying out related activities, for example starting and running their engines. These, too, would be likely to cause disturbance to neighbours.
12. Conditions might be used to provide a measure of control of the use, for example with regards to the numbers of vehicles stored at the site, the hours of usage and its use restricted to the appellant. However, these would not alter the fact that this is the wrong location for the use, nor would they address the potential for disturbance to neighbours arising from the vehicle movements and activities related to the storage activity.
13. I find that the use of the land for vehicle storage is unacceptable as it does not respond sensitively and creatively to the area's character contrary to Policy CC1 of the London Borough of Hounslow Local Plan 2015-2030, adopted September 2015 (LP). The development has the potential to cause harm to the living conditions of the occupants of neighbouring properties by reason of noise and disturbance, contrary to LP Policy CC2 that requires development proposals to deliver the right land use mix and LP Policy EQ5 that seeks to minimise noise disturbance.

Highway safety

14. There is a dropped kerb where the footpath from the site joins Westmacott Drive. However, this is more aligned with the access serving the domestic garage of a property in Buttermere Close. As a result, vehicles accessing the site would have to partially mount the kerb or cut across the grass adjacent to the footpath. The footpath from Westmacott Drive to the site, which is considerably in excess of the 10m suggested by the appellant, appeared just wide enough for a vehicle to travel along it, but not for a vehicle and pedestrian to share.
15. Given its setting in a residential estate, I am not persuaded that the footpath is not used by many people nor have I been provided with evidence to show me that it is dangerous for pedestrians.
16. Given its limited width, I am of the view that the use of the footpath by vehicles associated with the use would be likely to cause conflict between pedestrians and vehicles, whether drivers applied common sense or not. The former would have to step onto the grass or retrace their steps, both of which would be particularly problematic to infirm people or those with prams or young children. The alternative would be vehicles making potentially dangerous reversing manoeuvres back into the site or onto the road. As such, the use would be to the detriment of the safety and convenience of pedestrian users of the path.
17. A high wall on the north side of the footpath, at the point where it meets the footway on Westmacott Drive greatly restricts visibility to the left along this road and its footway. Drivers of vehicles joining the road would not be able to see pedestrians and *vice-versa*. Users of the footway would not be expecting to encounter vehicles here and even if these were moving slowly there would still be the likelihood of vehicle-pedestrian conflict. Users of the footway, especially those approaching from the north, would have little awareness of vehicles approaching from the site.
18. I note the reference to the use of the path by Council and emergency service vehicles. However, there would be likely to be very few of these. In any event, their movements would be justified by the need to maintain land and/or serve the public. This contrasts with the movements associated with the use of the land, for which I have not been provided with overriding justification.
19. My finding on this issue is that the additional vehicular movements that would result from the use of the land would be likely to result in inconvenience and danger to pedestrians using the footpath and footway along Westmacott Drive. This would be contrary to the terms of LP Policies CC2 and EC2 that seek to create accessible places with particular focus on pedestrian and cyclists, and require development proposals to demonstrate that adverse effects on the transport network are avoided, respectively.
20. The enforcement notice made reference to Policy 6.13 of the London Plan. However, as I was not provided with a copy of this it has not played a part in my decision.

Other matters

21. Whilst the appellant's statement shows that other similar fences have been erected in the Borough, I do not have sufficient evidence before me to give them significant weight. In any event, the appeal relates to the effect that the fence that has been erected on the site has on the area. Reference to the red line not reaching the highway was pertinent to the planning application made on the land, but not so to this appeal. The processing of the planning application by the Council is not a matter for this appeal, which can only relate to the terms of the enforcement notice. That residents were reportedly offered the land is not relevant to this appeal. Lastly, I agree that the PTAL rating of the site is not relevant to the matter before me and this has played no part in my decision.

Conclusion

22. For the reasons given above, I conclude that the appeal should not succeed. I have upheld the enforcement notice and refused to grant planning permission on the deemed application.

Roy Curnow

INSPECTOR