The Planning Inspectorate

Appeal Decision

Site visit made on 15 February 2021

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2021

Appeal Ref: APP/A1720/W/20/3260089
19-21 Juno Close, Fareham, Hampshire PO14 1FN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs Kayleigh Luckins against the decision of Fareham Borough Council.
- The application Ref P/20/0373/FP, dated 4 May 2020, was refused by notice dated 16 July 2020.
- The application sought approval of the following reserved matters in relation to outline application (P/13/1055/FP) : layout, scale, external appearance of buildings & Landscaping relating to 120 dwellings, with associated roads, Parking areas, footpaths and open space without complying with a condition attached to approval of reserved matters Ref P/15/0690/RM, dated 23 November 2015.
- The condition in dispute is No 2 which states that: *'The hedgerow on the western boundary of the site with Berywn Walk and Bulbarrow Walk (side of Plot 111 and rear of plots 112 – 118) shall be retained at a height not less than 2 metres at all times'*.
- The reason given for the condition is: *'In the interests of the visual appearance of the area'*.

Decision

1. The appeal is dismissed.

Background and Main Issue

2. The hedgerow in condition No 2 (the hedgerow) extends beyond the appeal site and along some other property boundaries. In the appeal application form[1] the appellant seeks the 'removal of rear boundary planting' and, by virtue of the appeal application plans, only therefore that part of the hedgerow at the appeal site (the appeal hedgerow). Accordingly, in its decision notice the Council refers to 'Removal of rear boundary planting (partial relief from condition 2 of P/15/0690/RM) at 19-21 Juno Close…'. However, I note that in the appellant's appeal statement the intended outcome of the appeal is to 'remove' the appeal hedgerow and 'if necessary, amend the existing condition to enable us to replace the existing planting'.

3. Taking this background into account the main issue is the effect that amending condition No 2 to allow the removal of the appeal hedgerow, or its removal and replacement by re-planting, would have on the character and appearance of the area and on biodiversity.

[1] Sections 3 and 7.

Reasons

4. The appeal site is Nos 19 to 21 Juno Close which are three houses and gardens with garages. Juno Close is a cul-de-sac and part of a much larger relatively recently constructed housing development in a mainly residential area of Fareham. The hedgerow is a boundary to former college grounds and it existed when the Council granted planning permission for the housing development site. It runs in a straight line behind the fenced rear garden boundaries of the appeal site and then, in one direction, along a row of similar houses, past one end of a turning head and then along the side of a house and its front and rear gardens. In the other direction it connects to other hedgerows but condition No 2 does not apply to those hedgerows.

5. A section of the hedgerow has been separately conveyed to each of the three owners of Nos 19 to 21. At the appeal site the appeal hedgerow planting extends above 1.8m high close boarded rear garden fences (and at No 21 a dwarf wall below) by approximately 1m to 1.5m. This planting fluctuates in height but is broadly repeated in the hedgerow along the other rear gardens of this row of houses and in the turning head, and in places includes some taller shrubs and trees. The hedgerow (and the appeal hedgerow) is generally about 2m wide and well-established with different plant species and types, is reasonably dense and, on the evidence before me, is not extensively managed. It is likely therefore to have appreciable benefit to wildlife. The hedgerow (and the appeal hedgerow) is therefore a noteworthy physical feature in this area and it is a locally distinctive verdant 'green corridor' amongst existing development.

6. While removal of the appeal hedgerow would leave the majority of the hedgerow intact, it would nonetheless affect about 25m of the hedgerow. This would be a significant loss of planting in itself but moreover would be almost a third of the overall length of the hedgerow. Consequently, a substantial proportion of this habitat would be lost, including at one end the link to the other hedgerows.

7. The houses at Nos 19 to 21 Juno Close, and in particular the garages, are sited relatively near a terrace of houses in Bulbarrow Walk. These houses are on slightly higher ground than the appeal site and the facing end elevation is reasonably wide and tall. The appeal hedgerow appreciably alleviates the visual and physical presence of these respective opposing developments. The removal of the appeal hedgerow would therefore destroy the landscape buffer at this most important point between this old and new development.

8. The loss of the appeal hedgerow would not be particularly evident in views from Juno Close from the front of the appeal site, due to the siting and massing of the houses and garages on the appeal site. However, its removal and the resulting 'gap' in the line of planting would be unduly conspicuous in some views from the turning head across rear garden boundary fences. In addition, the upper parts of the appeal hedgerow can be observed in public views from Bishopsfield Road, over gardens or to the sides of houses in Berwyn Walk and Bulbarrow Walk and across some flat roofed garages and an open parking courtyard (known as 'Service Area 20').

9. Consequently, the removal of the appeal hedgerow would unduly erode its significance (as part of this wider remnant of the hedgerow) to the cultural heritage of the area, would result in an unduly stark juxtaposition between

built form and an overly built-up appearance to development in this area. It would also destroy the significance and value of the appeal hedgerow as a habitat to a variety of wildlife for shelter and food, including that it would abruptly sever the continuity of the hedgerow as a foraging route for wildlife and its connectivity to other nearby hedgerows.

10. I accept that removing the appeal hedgerow and re-planting a new hedgerow at the appeal site could eventually achieve a similar landscaped buffer between these respective housing developments and could also ultimately provide a suitable wildlife habitat. However, to establish a new hedgerow of equivalent stature would be likely to take some years, including a similar intensity of planting. Moreover, it would in any event be a facsimile of the original hedgerow and it could not therefore have the same cultural significance. Consequently, a re-planted hedgerow would not overcome the harm from the removal of the appeal hedgerow that I have identified above meantime, or in the longer term.

11. The circumstances at the appeal site are closely replicated in a number of nearby houses. The upper parts of the hedgerow beyond the appeal site can be observed in more extensive public views from Juno Close, through some gaps between houses and between or over garages, gardens and fences and in the turning head, and also from the other side in the views from Bishopsfield Road and especially across the garages and parking courtyard where the full height and extent of the hedgerow is revealed down to ground level.

12. I am therefore concerned that were I to grant planning permission at the appeal site there would be a realistic prospect of setting an undesirable precedent that could ultimately lead to the total loss and destruction of the hedgerow by its complete removal. Even if a new hedgerow was re-planted along the entire length of the hedgerow, this would nonetheless be unwarranted and unacceptable for the same reasons that I have identified above with regard to the appeal hedgerow.

13. I recognise that under the terms of condition No 2 the appellant (and the owners of No 19 and No 21) could reduce the height of the appeal hedgerow to about 0.2m above the 1.8m garden fences. Anyone else who owned any other part of the hedgerow could also reduce its height to not less than 2m. I accept that this would lessen its visual prominence, the screening effect between development and its wildlife value. Nonetheless, albeit lowered, the hedgerow would not be removed or destroyed and consequently it would continue to have a significant and meaningful effect in these regards and this would not unduly diminish its cultural significance.

14. Considering the above, amending condition No 2 to allow the removal of the appeal hedgerow, or its removal and replacement by re-planting, would have had an adverse effect on the acceptability of the original development permitted by the Council. The condition is therefore necessary and would ensure that the development would not cause significant harm to the character and appearance of the area or to biodiversity. It would accord with Policy CS17 of the Fareham Core Strategy, August 2011. This policy includes that development should respond positively to and be respectful of the key characteristics of the area, including landscape, scale, form and spaciousness, should create a sense of identity and distinctiveness and should provide green infrastructure, including landscaping and trees.

15. It would also be consistent with the National Planning Policy Framework paragraphs 8, 124, 127, 170 and 175 which include that development should protect the natural and built environments, create high quality places and add to the overall quality of the area, be visually attractive as a result of appropriate and effective landscaping, be sympathetic to local character and history, including the surrounding built environment and landscape setting and maintain a strong sense of place. It should also minimise impacts and avoid significant harm to biodiversity.

Other Matters

16. There is a tree within the hedgerow which is protected by a tree preservation order. However, it is not sited within the appeal site and I note that the Council's tree officer did not object to the removal of the appeal hedgerow provided a suitable removal method was used to avoid harm to this tree. There is no compelling evidence before me to suggest that no suitable method exists, eg excavation by hand, and accordingly were I minded to grant planning permission a condition could ensure that satisfactory details were approved by the Council.

17. I appreciate that the appellant considers that the appeal hedgerow is 'an area of overgrown, unmanageable, unattractive hawthorn and bramble' and suggests that this was a view shared by a Council officer in the past. However, I do not have the officer report referred to by the appellant before me in this appeal. Nevertheless, even if these species are present in the appeal hedgerow (and in the hedgerow) I consider that these plants and the characteristics described by the appellant support the existence of 'a hedgerow' in this case. Furthermore, on the evidence before me, including as I saw at my site visit, the appeal hedgerow (and the hedgerow) has some longevity, was an original property boundary, remains a boundary and the planting is plainly arranged in a line with a reasonable density of spacing of individual plants. Such planting does not have to be 'aesthetically pleasing' to be a hedgerow or, moreover, to deliver the public benefits that I have identified in the main issues above.

18. I have taken account of the other personal reasons referred to by the appellant, including that I saw some littering and fly-tipping along part of the appeal hedgerow next to the appeal site. I sympathise that this is likely to be unsettling and may attract nuisance due to rodents. However, such activity may not cease or be prevented by the removal of the appeal hedgerow, or its removal and replacement by re-planting and, in any event, these are matters that could be addressed by the Council or the Police using other regulatory powers. I have also borne in mind that the consequences of the appeal proposal would remain long after these personal circumstances have ceased to be material. Therefore, these considerations do not outweigh the harm that I have identified in the main issue above.

19. I also recognise that the appellant obtained some pre-application advice from the Council's officers and that officers recommended that the application be permitted. Nonetheless, the Council's members expressed a different planning judgement, as they are entitled to do, and the Council made the decision that it did. I have, in any event, considered the appeal on its planning merits.

Conclusion

20. Considering the above, and having regard to the relevant tests of paragraph 55 of the Framework and related Planning Practice Guidance,[2] I find that the condition in dispute would serve a useful planning purpose and that it is necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

21. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR

[2] PPG paragraph 21a-003-20190723.