
Appeal Decision

Site visit made on 1 September 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/J2210/W/21/3267676
54 Hunters Forstal Road, Herne, CT6 7DW

- 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 S Gupta against the decision of Canterbury City Council.
 - The application Ref. CA/20/01801 dated 18 August 2020, was refused by notice dated 13 October 2020.
 - The development proposed is a single-storey outbuilding for use as games room and yoga gym including site perimeter fencing.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Although there appears to have been some informal indication that the appeal proposal was intended to be in some form of commercial use, the appellant's representations make it clear that it is intended for private family use. I proceed with the consideration of the merits of the appeal on this basis. I therefore place no weight on the first reason for refusal that takes as its starting point that it is intended to be a commercial gym more suited to a town centre location.

Main Issue

3. The main issue in the case is the suitability of the proposal and its appearance within an established residential area.

Reasons

4. The site comprises a small area of land sited at the corner of Hunter Forstal Road and Arden Road. The site is flat and presently forms part of a roadside verge at the junction. There is some controversy over ownership of the land. It would appear that the layout of the surrounding residential development envisaged the appeal site as part of the open area at the junction, partly to provide visibility splays, and partly to provide a pleasant open amenity area to the housing development.
5. The highway authority claims it as highway land, which is what one would commonly expect it to be. The web-link provided by the highway authority explains that 'highway land' refers to an area of land where the public have the right to use to 'pass and repass without hindrance'. It goes on to state that "With very few exceptions highway land that we maintain is not owned by the

council. The law assumes, unless there is evidence to the contrary, that highway land is owned by the owners of the land or property each side up to the centre line of the highway”.

6. In this instance, the appellant states that he has purchased the land, apparently from the company that originally developed the area for housing. For the purpose of this appeal, I will accept this as a statement of fact. However, land ownership does not preclude the need for planning permission for development, as defined in the legislation. In determining whether planning permission should be granted on private land, the decision rests on whether the public interest overrides the desire of the owner to carry out the development.
7. The appeal site, as indicated above, is part of a grass verge at the junction of 2 residential roads. The immediate vicinity comprises mainly detached houses with open front curtilages that are laid out to lawns and are well planted with trees and shrubs. A significant feature is that road junctions have substantial areas of open verges, making a significant contribution to the character of the area. The junction of Hunters Forstal Road with Arden Road is typical of this, with the verge on the other side of the junction mirroring the appeal site.
8. The appeal site is, in fact, a relatively small area in terms of development potential. The proposed ‘outbuilding’ would have no ownership or physical relationship to the adjacent properties, so that this description is inappropriate. Furthermore it would appear cramped on this small area and at odds with the openness of the layout of detached houses. The loss of the attractive tree on the site would be deleterious to this character. As such the proposed games room and gym would look incongruous in the street scene. The many householders in the vicinity have reasonable grounds to expect that the character of their surrounding will be retained. The idea of purchasing a piece of roadside verge, well away from the personal abode, and erecting what would normally be a within-curtilage building, is misconceived.
9. There are other matters raised, including the lack of detail about how a motor vehicle could be accommodated on the site, together with cycle parking, etc, that I need not pursue in any depth. Assuming that it would be possible to park a car within the space available, it would still leave a concern about the safety of manoeuvring in and out in the immediate vicinity of the junction. Since the appellant lives a considerable distance from the site, it is likely that a motor vehicle would be used for the journey.
10. My clear conclusion is that this proposal is greatly at odds with the established character of this attractive residential area: it would look cramped and incongruous in the street scene, even more so with the proposed 2m high

fencing. The harm that would arise to the appearance of the area, and the reasonable enjoyment of those living in the vicinity, significantly outweighs the benefits that might accrue to the appellant. For these reasons the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR