



Appeal Decisions

Site Visit made on 27 September 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2021

Appeal A Ref: APP/H1705/W/21/3276860

Wellspring Lodge, 16 Silchester Road, Tadley RG26 3PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Catrina Clulow against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 20/03062/ROC, dated 3 November 2020, was refused by notice dated 8 March 2021.
 - The application sought planning permission for the erection of new fencing and entrance gate without complying with conditions attached to planning permission Ref 18/01859/FUL, dated 11 October 2018.
 - The conditions in dispute are Nos 1 and 5 which state that:
 - 1) *The development hereby permitted shall be carried out in accordance with the following approved plans:*
Site Location Plan (received 27 June 2018)
Block Plan drawing no. TO/GAF/Location 001 Ver4 (received 12 September 2018)
Proposed Gate and Fence Location drawing no. TO/GAF/Location 001 Ver4 (received 12 September 2018)
Automated Gate at Back of Verge Specification drawing no. 5956/10 (received 27 June 2018)
2.4mH Euroguard Fencing drawing no. J6/01058 Sheet 4/4 (received 4 September 2018)
Detail of Jakoustic Fencing System - 3.5mH drawing no. J7/01043 Sheet 1 (received 4 September 2018);
 - 5) *The materials to be used in the construction of the gate hereby permitted shall be 30mm tubular steel with a black powder coated finish.*
 - The reasons given for the conditions are:
 - 1) *For the avoidance of doubt and in the interests of proper planning;*
 - 5) *In the interests of visual amenity and in accordance with Policy EM10 of the Basingstoke and Deane Local Plan 2011-2029.*
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Appeal B Ref: APP/H1705/W/21/3276862

Wellspring Lodge, 16 Silchester Road, Tadley RG26 3PX

- 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 Ms Catrina Clulow against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 20/03233/FUL, dated 10 December 2020, was refused by notice dated 8 February 2021.
 - The development proposed is described as, "Lychgate style enclosure over permitted automated gate".
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Decisions

Appeal A

1. That part of the appeal that relates to the reclaimed timber pole fence is dismissed. That part of the appeal that relates to the proposed acoustic fencing and the position of the gate being rotated by approximately 11 degrees in a clockwise direction, and the gate being altered from steel to hardwood timber infill is allowed and planning permission is granted for the erection of new fencing and entrance gate at Wellspring Lodge, 16 Silchester Road, Tadley RG26 3PX in accordance with the application Ref 20/03062/ROC made on 3 November 2020 without complying with conditions Nos 1 and 5 set out in planning permission Ref 18/01859/FUL granted on 11 October 2018 by the Council, but otherwise subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is dismissed.

Applications for costs

3. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

4. Regarding Appeal A, as the development granted planning permission has commenced, I have dealt with the appeal on this basis, in accordance with section 73A of the Town and Country Planning Act 1990 (as amended).
5. Regarding Appeal A, during the course of the planning application the design of the proposed fence was amended from horizontal timber fencing to a timber pole design. Although the appellant has suggested that both designs could be considered, in the interests of fairness to interested parties, who have been consulted on the appeal, I have considered the same plans that the Council determined the planning application on, which relate to the proposed reclaimed timber pole fence.
6. The proposal for Appeal B would form a part of the proposal for Appeal A. As such, to avoid repetition I have provided one reasoning section, detailing my findings for both appeals. Notwithstanding this, each proposal and appeal has been considered individually, and on its own merits.
7. During the course of the appeals the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment. I have had regard to the 2021 version of the Framework in my decisions.

Background and Main Issues

8. Regarding Appeal A, the proposed acoustic fencing is not proposed to be altered from that previously approved¹. Rather, the proposed elements to be amended under Appeal A are the boundary fence and the entrance gate along the driveway, to the north of the site. Specifically, it is proposed that the mesh

¹ 18/01859/FUL

fence on the north-eastern side of the driveway be replaced with a reclaimed timber pole fence, and that the position of the gate be rotated by approximately 11 degrees in a clockwise direction, and that the gate be altered from steel to timber infill. It is clear from the Council's decision that it has no objection to the proposed acoustic fencing, nor to the alterations to the gate. I have no evidence before me to reach a contrary view to the Council in this regard and therefore the consideration of Appeal A focuses on the effect of the proposed reclaimed timber pole fence.

9. Regarding Appeal B, the proposal is for the erection of a Lychgate-style enclosure over the driveway, to be positioned over the gate being considered under Appeal A. Therefore, the main issues with respect to both Appeal A and Appeal B are the effect of each proposal on the character and appearance of the surrounding area.

Reasons (Appeal A and Appeal B)

10. The appeal site forms part of a long accessway that runs between 2 properties. It is noted that there are a number of non-residential uses in the vicinity, meaning that a diverse range of materials, styles and designs is present in the wider area. However, considering the domestic scale of the proposals, their primary relationship is with the frontage of Silchester Road. In this regard, this part of Silchester Road contains a number of residential properties which are slightly set-back from the road frontage. Thick vegetation adjacent to the footway is a notable feature, as are fairly unobtrusive front boundary treatments situated around mostly fairly open drives, including low timber and metal fencing. Accordingly, although there is a variety of boundary treatments along this part of the road, what is present is understated in terms of built form.
11. In this context, the proposed reclaimed timber pole fence would be prominently located adjacent to the footway. Although the gaps between the poles would allow light and vegetation to pass through, due to the substantial mass of the poles and their heights, when viewed collectively they would unduly contrast with the mostly low-key front boundary treatments nearby, particularly when looking towards the appeal site in an easterly direction. Moreover, although a planning condition could be imposed to prevent them from being painted and the poles would be varied in height, they would still not blend well with the trees forming part of the boundary with No 14 Silchester Road, as they would have an engineered appearance. The presence of a telegraph pole near the access way is a materially different type of development, which would not offset the harm identified.
12. The mature vegetation (including leylandii hedges) and trees present at the frontages of nearby properties (including No 18 Silchester Road) would provide some screening effect, but this cannot be relied upon to reduce the harmful impacts of the proposal, as the screening could be removed at any time, either by present or future occupiers. Whilst the proposal would involve the formalisation of a boundary, in this case the advice given at paragraph 11.27 of the SPD² is apt, which states that, amongst other things, the presence of landscaping, fencing or other substantial boundary treatments that screens some or all of a structure does not justify otherwise inappropriate development.

² Design and Sustainability Supplementary Planning Document (adopted 2018)

13. Therefore, regarding Appeal A, I find that the proposed reclaimed timber pole fence would have an unacceptable and harmful effect on the character and appearance of the surrounding area. As such, it would conflict with Policy EM10 of the Basingstoke and Deane Local Plan (2011 to 2029) (adopted 2016) (Local Plan) which provides that, amongst other things, development proposals will be permitted where they positively contribute to local distinctiveness, the sense of place and the existing street scene.
14. For the reasons given above, the proposed reclaimed timber pole fence would conflict with the advice given in the SPD regarding landscaping not justifying otherwise inappropriate development, and with the Tadley Design Statement³ which seeks to, amongst other things, respect and preserve the character of the area. It would also conflict with paragraph 130 c) of the Framework, which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character.
15. In relation to Appeal A, the appellant has requested that consideration should be given to a split decision allowing the alterations to the gate. The Council did not raise any concerns in relation to this aspect of the proposal and based on the evidence before me, I consider that the proposal complies with the Council's policies in this respect. Moreover, as mentioned above, the proposed acoustic fencing is not proposed to be altered from that previously approved. I therefore conclude that Appeal A should succeed to this extent only.
16. Turning to the effect of the proposed Lychgate-style enclosure (Appeal B), this would be a large 'entrance feature' type-structure which would extend the full width of the driveway. Its side elevations would be fully enclosed, giving it the appearance of an outbuilding. It would be shorter than the adjacent residential properties, and it would be set-back somewhat from the footway. Considering its function as a residential gateway structure, its placement with respect to the predominant building line along Silchester Road would not be inappropriate.
17. Nevertheless, it would be in view to passers-by and from some longer views along Silchester Road. Its considerable height and significant scale in its context would unduly contrast with many of the much more modest fences and other structures present at frontages in the vicinity. Accordingly, it would appear as an overly-dominant structure which would not integrate well with its surroundings. The flat roof section of the proposed crown roof would not be readily visible in the street scene, and a pre-commencement condition could be imposed relating to materials, but these factors would not overcome the harm that would be caused by the proposal.
18. The sides of the proposed enclosure would be mostly screened by vegetation, but this cannot be relied upon to reduce the harmful impacts of the proposal, as the screening could be removed at any time, either by present or future occupiers. Furthermore, considering the width of the accessway as a whole, in my view the accessway is not easy to miss.
19. Therefore, regarding Appeal B, I find that the proposed Lychgate-style enclosure would have an unacceptable and harmful effect on the character and appearance of the surrounding area. As such, it would conflict with Policy EM10 of the Local Plan, the SPD, the Tadley Design Statement and paragraph 130 c) of the Framework.

³ Tadley Design Statement: Design Guidance for the town of Tadley (adopted 2004)

Conditions (Appeal A)

20. In relation to Appeal A, the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have minimal information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In doing so, I have had regard to the conditions suggested by the Council via the appeal process and I have considered those suggested conditions against the advice on conditions set out in the Framework and the Planning Practice Guidance. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
21. In this regard, as the development has already commenced, I have not imposed the standard time commencement condition. A condition is necessary requiring that the approved gate shall not open outwards towards the highway of Silchester Road, in the interests of highway safety.

Other Matters (Appeal A)

22. In relation to Appeal A, the appellant has referred to a potential fall-back position, under Class A of Part 2 of Schedule 2 of the GPDO⁴. However, under A.1(b) development is not permitted if the height of the fence would exceed 2 metres above ground level. Some of the proposed timber poles would be higher than this, meaning that the fall-back position would likely involve a less harmful development than the proposal for Appeal A. Accordingly, this matter does not change my findings.

Conclusions (Appeal A and Appeal B)

23. Regarding Appeal A, the introduction of the proposed acoustic fencing, and the proposed alterations to the gate, are clearly severable, both physically and functionally, from the proposed reclaimed timber pole fence. Therefore, for the reasons given above, I have issued a split decision, dismissing Appeal A insofar as it relates to the proposed reclaimed timber pole fence, but allowing Appeal A insofar as it relates to the proposed acoustic fencing and the gate.
24. Regarding Appeal B, for the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, Appeal B is dismissed.

Alexander O'Doherty

INSPECTOR

⁴ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Conditions Schedule (Appeal A Ref: APP/H1705/W/21/3276860)

- 1) Insofar as they relate to the development hereby permitted, the development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (1:1250) (dated 2021), Location Plan (TO/GAF/Location 001 Variation V1.1), 2.4mH Euroguard Fencing (J6/01058 Sheet 4/4) (received by the Local Planning Authority on 4 September 2018), Detail of Jakoustic Fencing System - 3.5mH (J7/01043 Sheet 1) (received by the Local Planning Authority on 4 September 2018), Proposed gate with hardwood timber infill (WL/GV—0124—Timber).
- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in type, colour and texture to those submitted and samples approved within the application submission for planning permission 18/01859/FUL (insofar as they relate to the development hereby permitted): 2.4mH Euroguard Fencing (J6/01058 Sheet 4/4) (received by the Local Planning Authority on 4 September 2018), Detail of Jakoustic Fencing System - 3.5mH (J7/01043 Sheet 1) (received by the Local Planning Authority on 4 September 2018).
- 3) Within 3 months of the date of implementation of this planning permission, details shall be submitted to and approved in writing by the Local Planning Authority relating to the retention of existing vegetation and trees on site, and a scheme of landscaping which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted (including replacement trees where appropriate). The works approved shall be carried out in the first planting and seeding seasons following the first occupation of the building or when the use hereby permitted is commenced. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, to be agreed in writing by the Local Planning Authority.
- 4) The materials to be used in the construction of the gate hereby permitted shall be hardwood timber infill.
- 5) Any gates provided shall be set back a minimum distance of 5 metres from the edge of the footway of the adjoining highway and shall be thereafter maintained, unless otherwise agreed in writing by the Local Planning Authority.
- 6) The gate hereby approved shall not open outwards towards the highway of Silchester Road and shall be thereafter maintained in this condition.