The Planning Inspectorate

Appeal Decision

Site visit made on 15 June 2022

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st August 2022

Appeal Ref: APP/R3650/D/22/3293389
2 Pelham Place, Wrecclesham, Surrey GU10 4TR

- 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 Eng Wei Chau against the decision of Waverley Borough Council.
- The application Ref WA/2021/01045, dated 02 March 2021, was refused by notice dated 30 November 2021.
- The development proposed is 'Erection of a boundary fence fronting the public highway'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was amended following submission of the application. It *was 'Erection of a 1650mm high timber fence fronting the public highway'*. I have utilised the amended description of the development, which better reflects the materials and design of the fence proposed.

Main Issues

3. The main issue is the effect of the proposal on the character and appearance of the site and surrounding area.

Reasons

4. The appeal site is a detached 1980's dwelling within a small cul-de-sac in a suburban area. The appeal site has a relatively shallow and wide rear garden, conversant with its size and era of construction. The rear garden bounds Thorn Road, to the west. Thorn Road is also a predominantly residential road, which has a formal junction with Boundstone Lane, a main road, and which eventually splits in various directions and is met by a network of footpaths and single-track roads. Thorn Road transitions into a semi-rural character at a relatively short distance from Boundstone Lane.

5. Thorn Road has a strong verdant and sylvan character by virtue of the landscaped front gardens, hedged boundary treatments and mature trees along its route. The rear boundary hedge of the appeal site and its neighbouring properties make an important contribution to the strong verdant character at the junction with Boundstone Lane, as they are all bounded by a single, high, mature hedge.

6. The appeal proposal would replace part of the existing long line of hedge with a wire chain link fence to the rear boundary of the appeal property. Some unspecified landscape planting would be planted within the site, leaving the chain-link hedge exposed to Thorn Road for an extended period of time. This would erode the verdant character at a prominent point in Thorn Road and would be out of keeping with the surrounding boundary treatments, which are predominantly hedged only or feature a low-level fence or wall with hedging behind.

7. The materials of the appeal proposal would appear discordantly urban or institutional utilitarian in the context of the semi-rural character of Thorn Road.

8. Whilst a nearby property has erected some close-board timber fencing to the rear boundary fronting Thorn Road, the hedge and tree behind it are clearly visible, and the materials used are natural and more appropriate to the character of the road. Nonetheless, this close-board fencing has also eroded the verdant character of the area and the cumulative loss of the hedgerow along the rear of the properties would have a significant detrimental effect on the area.

9. As such, the appeal proposal would cause substantial harm to the character and appearance of the surrounding area, which could not be overcome by a landscaping condition.

10. The Appellant's argue that the chain link fence is important for the security of themselves and their property, and for the privacy of the family's children. Their grounds of appeal refer to a person's 'inalienable right to security'. Article 5 of the Human Rights Act 1998 (as amended) (HRA) refers to the right to liberty and security; however, this is a limited right and relates to the protecting of freedom from unreasonable detention rather than personal safety and security of property. The Bill of Rights was introduced to Parliament in June 2022 and will repeal and replace the HRA; however, it will retain all the Convention Rights from the European Convention on Human Rights (ECHR) and is yet to become law.

11. The Appellant's right to a family life under Article 8 sets out the right to respect for private and family life, his home and his correspondence. This is also a limited right and interference with this right in accordance with the law as is necessary in a democratic society is lawful. In this case, the interference with the Appellant's home in preventing the erection of a boundary treatment which would cause harm to the character and appearance of the surrounding area would be a proportionate interference in securing the rights and freedoms of others in accordance with planning law and policy.

12. In any case, the hedge which bounds the rear of the site is mature, predominantly evergreen and well-established. It provides a good standard of privacy for the appeal site, which would not be matched by the appeal proposal. Security could be further enhanced without the harm identified above.

13. Therefore, the proposal is contrary to policies TD1 and NE2 of the Local Plan Part 1, adopted in 2018 and saved policies D1, D4 and D7 of the Local Plan, adopted in 2002, and policy FNP1 of the Farnham Neighbourhood Plan, made in 2013, as well as the National Planning Policy Framework (the Framework).

These policies seek, amongst other things, development of a high-quality design which is sympathetic to the character of its surroundings.

Conclusion

14. For the reasons stated above, I find that the appeal proposal is contrary to the relevant policies of the Development Plan. No other considerations indicate that the appeal should be determined other than in accordance with the development plan. The appeal is accordingly dismissed.

Kim Langford Tejrar

INSPECTOR