



Appeal Decision

Site visit made on 14 September 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2022

Appeal Ref: APP/V1260/W/22/3297167

43 Kilmington Way, Highcliffe, Christchurch, Dorset BH23 5BL

- 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 Mrs Hilary Newton against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 8/21/0898/COU, dated 8 September 2021, was refused by notice dated 1 December 2021.
 - The development proposed is change of use of land to domestic garden and erection of 2m boundary fence.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to domestic garden and erection of 2m boundary fence at 43 Kilmington Way, Christchurch, Dorset BH23 5BL in accordance with the terms of the application, Ref 8/21/0898/COU, dated 8 September 2021, and the plans submitted with it.

Preliminary Matters

2. I have essentially taken the description from the Council's decision notice as it more succinctly describes the appeal proposal. However, I have removed the word 'retrospective' as this is not an act of development. The fence had been erected at the time of my visit.
3. The Council indicated on the appeal questionnaire that the site was the subject of a Tree Preservation Order (TPO) and in or adjacent to an internationally designated site. The Council have since confirmed that the site does not lie within and would not have a likely significant effect on the designated features of the Mudeford Cliffs Site of Special Scientific Interest to the south. In addition, they have confirmed that there are no trees covered by a TPO which would be affected by the proposal. As such I have proceeded on this basis.

Main Issue

4. The main issue in this appeal is the effect of the boundary fence on highway safety with regard to pedestrians using the footway on Kilmington Way.

Reasons

5. The two metre high close boarded fence has been erected such that it borders the footway along Kilmington Way and a pedestrian walkway along the south eastern side of the host property. At the point where the two paths meet, the footway along Kilmington Way continues south eastwards along the rear edge of an area in the roadway providing a parking bay.

6. During my site visit, I saw that the parking bay was well used. There were no marked spaces and cars had pulled into the bays in forward gear. Echelon parking would seem to be the established practice for vehicles using the parking bay, as indicated in the photographs provided by the appellant and my own observations.
7. From the seated position of a driver in the parking bay, there are clear views in a north westerly direction along the length of the footway on Kilmington Way. The fence being located behind the footway does not impede a driver's ability to see pedestrians proceeding along the footway.
8. Equally, the presence of the fence did not impede a pedestrians view of the parking bays, when proceeding south eastwards along Kilmington Way.
9. Given that the footway continues around the parking bay such that pedestrians do not need to step onto the road, there is no conflict between users of the footway and vehicles using the parking bay as a result of the fence being erected including those users of the footway with disabilities, visual impairment or vulnerable users such as children or the elderly.
10. As such, I find no conflict with Policy KS11 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy adopted April 2014 insofar as it requires safe access and movement onto the highway network nor the National Planning Policy Framework which states that development should be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

11. The Council has raised no objection to the change of use of the land to domestic garden and I see no reason to disagree.

Conditions

12. Given that the works have already taken place, and in the absence of any suggested conditions being put forward by the Council, I do not propose to attach any conditions.

Conclusion

13. For the reasons given above, I conclude that the appeal should succeed.

Alison Fish

INSPECTOR