
Appeal Decision

Site visit made on 3 March 2023

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th April 2023

Appeal Ref: APP/K3605/D/23/3315240

Croinedene, Byfleet Road, Cobham, Surrey KT11 1EE

- 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 Jonathan Scott against the decision of Elmbridge Borough Council.
 - The application Ref 2022/1607, dated 22 May 2022, was refused by notice dated 21 November 2022.
 - The development proposed is wooden fence to south curtilage of property.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above has been taken from the Council's decision notice in the interests of clarity. The appeal has been dealt with accordingly.

Main Issues

3. The main issues are the effect of the proposal on;
 - (a) the character and appearance of the area including trees; and
 - (b) biodiversity.

Reasons

Character and Appearance

4. The site is located at Croinedene, to the frontage of the existing buildings and directly adjacent to Byfleet Road. It consists of dense vegetation and trees which help establish an appreciable degree of openness at the front of the site, heavily filtering and softening the appearance of the existing buildings.
 5. There is also an existing chain link fence but its see through nature and colour is inconspicuous amongst the dense vegetation. Altogether, the existing context makes a positive contribution to the character and appearance of the area.
 6. The proposal would erect a wooden fence at the frontage of the site for around 33m in length, extending back around 4.8m at each flank, and stand around 2.4m in height.
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7. I acknowledge that there are other fences in the immediate area, but it is not clear in this case whether the proposal could be delivered whilst retaining sufficient vegetation and tree cover at the site's frontage. In part, this is because the evidence submitted in relation to trees does not follow the accepted standards referenced by the Council.
8. Whilst I appreciate the appellant's point that excavation and foundation requirements might be limited, this is only one element of the accepted standards and not indicative of the broader acceptability or potential impacts. As such, it is not clear that the proposal could be delivered without harming the appreciable degree of openness at the front of the site.
9. Overall, there is insufficient evidence to determine that the proposal would not harm the character and appearance of the area, including trees. Therefore, it would conflict with Policies CS4 and CS17 of the Core Strategy 2011 and Policies DM2 and DM6 of the Development Management Plan 2015.
10. Among other things, these policies set out that new development should respond to the positive features of individual locations, integrating sensitively with the locally distinctive landscape.
11. Whilst the appellant contends whether Policy CS4 is relevant, I note it sets out that Weybridge is an area with a high quality environment. All new development will need to be well designed, integrate with, and enhance local character. As such, the policy is relevant to the subject matter of this main issue and has been cited accordingly.

Biodiversity

12. As already determined under the previous main issue, the site consists of dense vegetation and trees. On this basis, there is a reasonable likelihood that the site could support appreciable levels of biodiversity. Consequently, it is reasonable for the Council to require the appellant to conduct biodiversity surveys to properly inform an assessment of the proposal's impact.
13. Given that there is no biodiversity survey evidence to assess, in conjunction with the likelihood that some vegetation would need to be removed to facilitate development, it is not possible to conclude that the proposal would have an acceptable impact.
14. The appellant contends that the erection of a boundary fence of any height would have the same impact on biodiversity, and that a fence below one metre in height would not require planning permission, which creates a fallback position in favour of the proposal.
15. However, I am not persuaded that this is necessarily the case because it is not clear what biodiversity exists and whether a higher fence might cause different interactions, perhaps forming a barrier to foraging, shading of habitat, or other potential unidentified factors. As such, any potential fallback would carry limited weight.
16. Overall, there is insufficient evidence to determine that the proposal would not harm biodiversity. Therefore, it would conflict with Policy CS15 of the Core Strategy 2011 and Policy DM21 of the Development Management Plan 2015. Among other things, these policies seek to ensure new development does not result in a net loss of biodiversity.

Other Matters

17. I can fully appreciate the appellant's desire to deliver the proposal in order to combat road noise. However, it has not been demonstrated that road noise is significant or the extent to which the fence might be effective, and therefore further details are necessary¹.
18. Consequently, I am unable to determine what level of harm might be imposed on the living conditions of occupiers or determine there would be potential benefits of any more than limited weight in favour of the proposal. As such, the matter has not been determinative under the appeal.
19. The appellant suggests the trees and vegetation could be removed without impediment. Whether this is the case or not, the appellant states they have no intention of carrying out such works.
20. Consequently, the likelihood of it happening is limited and I have given the matter correspondingly limited weight in my decision and assessed the proposal on the basis of existing site conditions.

Conclusion

21. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR

¹ by way of noise survey and acoustic performance data of the fence or otherwise