



Appeal Decision

Site visit made on 2 January 2024

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2024

Appeal Ref: APP/M0655/W/23/3331572

20 Statham Drive, Lymm, Warrington WA13 9NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs Hassall against Warrington Borough Council.
 - The application Ref 2023/00535/FUL, is dated 25 April 2023.
 - The development proposed is change of use from public amenity to private residential use together with associated boundary fencing and gates.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal is made following the failure of the Council to give notice of their decision on the application within the statutory period. The Council have provided an Appeal Statement which has confirmed that were they to have issued a decision, they would have refused planning permission. I have taken this to be the decision which the Council would have made had it been empowered to do so.
3. On the 4 December 2023, the Council adopted the Warrington Local Plan 2023 (Local Plan). I have been provided with copies of the relevant policies. The Council refer to the Local Plan and relevant policies in their Statement, which the appellant has had an opportunity to comment on.
4. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
5. A set of revised plans were provided to the Council prior to the submission of the appeal. The Council has confirmed that these plans have not been subject to re-consultation. The appeals procedural guide¹ makes it clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

¹ Procedural Guide: Planning Appeals – England (2023)

6. Having regard to the principles established in *Holborn Studios Ltd*², the proposed changes introduce access gates in a materially different position from the plans that were considered by the Council, and which have been subject to consultation. Works outside the red edge application site are also proposed and while the Highway Authority (the HA) may have subsequently had sight of the proposals, the revised plans have not been subject to consultation. Therefore, in the interests of fairness, this appeal must be determined based on the plans, which have been subject to formal consultation.

Main Issues

7. Given the foregoing, the main issues are the effect of the proposed development on:
- the character and appearance of the area;
 - the users of the public rights of way (PRoW); and
 - highways safety.

Reasons

Character and appearance

8. The appeal site is located at the end of a suburban, residential cul-de-sac. The surrounding area includes a mix of housing types, but Statham Drive has an orderly street scene comprised of two storey dwellings, with a similar scale, appearance, and plot size. The dwellings are set behind front gardens and parking areas, with low front boundary walls and occasional garden hedges. The properties at the head of the cul-de-sac have a consistent front building line and front boundaries, which add uniformity to the street scene.
9. The proposal is to extend the front garden and driveway outwards into the road and enclose the area with boundary fencing and gates. The proposal would, therefore, extend forward and beyond the established front boundary line of the properties at the head of the cul-de-sac.
10. The extent of this proposed forward projection, combined with the height and mass of the proposed fencing and gates would result in an odd arrangement. As a result, the proposal would be abrupt and inharmonious in the context of the street scene and the existing pattern of development at the head of the cul-de-sac. It would not be reflective of existing front gardens and the local character. Even if a hedge were to comprise the west boundary, it would not successfully replicate the appearance of the existing hedge to the east within the street scene, as it would not be at the end of the street, but rather clearly set partially within it.
11. The development would be visible throughout the head of the cul-de-sac, where the above effects would be evident.
12. For the reasons set out above, the proposed development would have an unacceptable effect on the character and appearance of the area. Therefore, it would conflict with Policies DC6 and ENV8 of the Local Plan, which together, amongst other things, seeks development that is of a good design, which

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823

respects, sustains, and makes a positive contribution to local character and distinctiveness.

PRoW

13. The PRoW is located to the east of the appeal site, connecting the Trans Pennine Trail to the north and the Bridgewater Canal to the south.
14. The section of footpath that runs from a neighbouring street, Statham Avenue, past the appeal site and onto the canal, is primarily enclosed on both sides by the rear boundary fences and hedges of residential properties. The stretch of footpath is long and narrow in most parts. The head of the cul-de-sac provides a large break in the enclosed, narrow footpath and allows direct access to the PRoW from Statham Drive.
15. The proposed development would extend the boundary fence of the host property along the PRoW, which would result in the partial loss of the spacious break. Nonetheless, a gap would remain, and the short length of proposed fencing would still retain a direct pedestrian access to the PRoW.
16. Consequently, the proposed development would have an acceptable effect on the users of the PRoW. As such, it would not conflict with Policies INF1, DC3, DC6 and ENV8 of the Local Plan, which together and amongst other things, encourage good design, and schemes that are inclusive and accessible and not harmful to general levels of amenity.

Highways safety

17. The head of the cul-de-sac is laid out and is part of the adopted highway. The two ends of the cul-de-sac allow vehicles to turn within the road and travel back down the road in a forward gear.
18. The enclosing of the highway land would significantly reduce the width of the carriageway and the ability for vehicles to turn. However, I understand that this turning space is already obstructed on a regular basis by unrestricted parking of vehicles.
19. Moreover, there would remain an opportunity at the opposite end, where vehicles, including emergency vehicles, would be able to manoeuvre and travel back down the road in a forward gear.
20. While the opportunity for on-street vehicle parking would be lost, many of the existing properties have their own driveways which enables off street parking for vehicles. Therefore, the proposal would not result in or exacerbate a parking problem within the street that would lead to unacceptable highway safety implications.
21. Reference is made to the turning head providing vehicle access to a neighbouring property, Garth Cottage. The appellant's evidence indicates that sufficient width would be retained within the highway to technically allow access, although this would be a contrived arrangement due to a pavement which juts into the carriageway. Nonetheless, there is no clear evidence that such an arrangement would be manifestly unsafe.
22. Consequently, on the evidence before me, I find that the proposed development would have an acceptable effect on highway safety. Accordingly, the proposal would not conflict with Policies INF1, DC3 and DC6, of the Local

Plan, which together and amongst other things, seeks good design that promotes access for all users.

23. Additionally, the proposed development would not conflict with the guidance of paragraphs 114 and 115 of the Framework, which requires that safe and suitable access is available for all users, and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Planning Balance and Conclusion

24. Notwithstanding my conclusions on the effect of the users of the PRow and matters of highways safety, the proposal would conflict with the development plan as a whole. The other considerations before me, including any ecological benefits of the extra garden and hedge provision, do not indicate that I should make a decision other than in accordance with the development plan.
25. For the reasons given above, I conclude that the appeal is dismissed and planning permission is refused.

N Bromley

INSPECTOR