



Appeal Decision

Site visit made on 9 July 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2024

Appeal Ref: APP/K3605/W/24/3339192

8 Hanover Walk, Weybridge KT13 9QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by MJA Investments against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/3004.
 - The development proposed is described as 'to allow a small fence to surround the garden owned by the property'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form states the development was completed on the 12 June 2022. During my visit, I noted that the fence had been erected and it enclosed an area of grassed amenity land. I have therefore considered the appeal on the basis that the development has already taken place.

Main Issues

3. The main issues are the effect of the development on:
 - green infrastructure; and
 - the character and appearance of the area.

Reasons

Green infrastructure

4. The grassed area of land that has been enclosed is part of the planned landscaping of the housing development detailed in the original application (WAL/1972/0192). It forms a sizeable amenity greenspace within the development and as a result constitutes a 'green infrastructure asset' as defined in the supporting text to Policy CS14 of the Elmbridge Core Strategy (CS) Adopted July 2011.
5. Policy CS14 affords a high level of protection to such areas and requires new development to protect, enhance and manage them. Prior to being enclosed, the land positively contributed to creating a sense of place and respected the open nature of this carefully planned housing development. The enclosure of the land with picket fencing, erodes the role that the land plays in contributing to the open setting of the housing development and its visual amenity. The

picket fence obscures the openness of the landscaping and views of the grassed area. Whilst it may not have provided useable space for others, it did provide important visual amenity to those living in and accessing the estate.

6. Reference is made to the historic poor maintenance of the land and that the appellants ownership of the land will facilitate its maintenance. However, maintenance of the land is neither dependant on the change of use nor the enclosure of the land with a picket fence.
7. The Council refer to paragraph 103 of the National Planning Policy Framework (NPPF), and Policy DM20 of the Elmbridge Local Plan Development Management Plan (DMP) Adopted April 2015, which relies on the definition of Open Space within the NPPF. Both seek to protect open spaces from development. However, 'Open Space' is defined in the NPPF as '*All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity*'. Given that the land does not offer opportunity for sport and recreation, it would not constitute 'Open Space' as defined in the NPPF. Accordingly, neither are relevant to my assessment.
8. For the reasons identified above, I conclude that the development has an unacceptable effect on the provision of green infrastructure. The development is therefore contrary to CS Policy CS14 insofar as it seeks to protect green infrastructure assets.

Character and appearance

9. The appeal site is a corner property within a suburban residential area. The front gardens of properties in Hanover Walk adjacent to the site have open frontages and contain only planting. In addition, designed landscaping features contribute to the pleasing verdant, open, and spacious character and appearance of the estate.
10. The enclosed amenity greenspace is relatively wide and runs along the length of the rear garden on No 8. It is an important landscaped area in a prominent position, visible as one enters Hanover Walk from Castle Road. It complements the open frontages on the opposite side of the road giving a spacious feel to the estate.
11. The picket fence that encloses the greenspace is marginally set in from the footpath. Nevertheless, the fence is stark and visually imposing. Furthermore, while it is not a tall boundary treatment, it impedes views of the grassed area behind it and, given the absence of other built enclosures in the vicinity, is at odds with the prevailing character of the area and therefore appears incongruous.
12. While planning controls would prevent any further development of the land, this would not address the harm identified from the change of use of the land and its enclosure with a picket fence. I have also been referred to the presence of the parking space at No 8. In my view this, and the presence of a vehicle within it, impedes the openness of the estate and emphasises the value and importance of the landscaped areas that have been retained.
13. For the reasons identified above, I conclude that the development has an unacceptable effect on the character and appearance of the area. The development is therefore contrary to CS Policies CS4 and CS17 and DMP Policy

DM2. These policies require development to integrate with and preserve or enhance local character.

Other Matters

14. The appellant refers to a covenant between the homeowner, developer and local authority. Private covenants prohibiting or allowing certain types of uses/developments are a civil matter and not within the remit of planning control. As such, the existence of the covenant and how it may need to be enforced have no bearing on my determination of this appeal.

Conclusion

15. The proposal conflicts with the development plan and the material considerations before me do not indicate that the appeal should be decided other than in accordance with it.

V Goldberg

INSPECTOR