



Appeal Decision

Site visit made on 8 October 2024

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2024

Appeal Ref: APP/X0360/C/23/3321958

Land adjacent to 8 Andrew Close, Wokingham RG40 2HY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mrs Liliane Connell against an enforcement notice issued by Wokingham Borough Council.
 - The notice was issued on 12 April 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from amenity land to residential use.
 - The requirements of the notice are: (i) Cease the unauthorised use of the land for residential purposes. (ii) Remove the fence, posts and its foundations (shown marked in brown in the approximate location on Plan 1 attached to the notice) including any resultant materials from the land. (iii) Remove the planting from the land (shown marked in green on the approximate location on Plan 1). (iv) Restore the land to its former condition prior to the breach taking place. (v) Erect a 2m metre high close boarded fence between the points A, B and C shown on Plan 2 attached to the notice (shown marked with a brown line) and as shown in the photograph also attached.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change of use from amenity land to residential use on land adjacent to 8 Andrew Close, Wokingham RG40 2HY referred to in the notice, subject to the conditions in the Schedule at the end of this Decision.

Preliminary Matter

2. The revised National Planning Policy Framework (the Framework), published on 19 December 2023, has been taken into account in my Decision.

Ground (a) appeal

Main Issue

3. The main issue in this ground of appeal is the effect of the development on the character and appearance of the surrounding area.

Reasons

Character and appearance

4. The appeal site is a roughly rectangular parcel of land lying between the side of a detached residential property and Easthampstead Road, a busy main road. Prior to the use as residential garden, the site formed part of a more extensive area of grassy open space alongside the main road.
5. The appellant's property is located towards the end of a cul-de-sac, on a modern residential estate laid out along 'open plan' lines. For the most part, properties on the estate are set well back from the main road, either behind well-maintained front gardens containing neat lawns along with maturing ornamental planting, or otherwise behind open spaces visually dominated by tall trees, substantial maturing shrubs and hedge planting. The varied, well-planted roadside open spaces, along with the tall trees and maturing shrubs and hedges prevalent on the frontages of other residential properties on the main road, contribute to a pleasantly spacious and verdant feel in the vicinity of the site. They also lead to an appreciable sense of a green corridor along the main road, consistent with its 'Green Route' status in the Wokingham Borough Managing Development Delivery Local Plan (LP).
6. The development included erecting close board timber fencing almost 2 metres high, to enclose the area of enlarged garden. In the context of the overall amount of open land alongside the dwelling and the extensive areas of open space at the roadside nearby, the site is of relatively modest proportions. The land now enclosed by fencing is thus correspondingly limited in size. At a distance of around 3 metres, the fencing is set well back from the pavement, with an ample open area remaining in front. In addition, there has been no significant erosion in natural features which contributed positively to the visual qualities of the surrounding area. As a result, there has been minimal loss of open landscaping arising from the development.
7. The fencing stands much closer to the footway than the neighbouring close board fence of similar height at the side of 61 Starmead Drive (No 61). The change in alignment of the boundary treatments is to some degree emphasised by the newer appearance of the fencing, compared to the well-weathered natural finish and largely recessive visual qualities of the older neighbouring boundary treatment. Even so, that should change over time as the fencing weathers to a colour similar to No 61's fence.
8. More importantly, the distance between the fencing and the pavement along with its stepped alignment is not at odds with similar roadside fencing nearby. There is no discernible consistent pattern in the vicinity in the proportions and arrangements of roadside open spaces, or in the distances between boundary treatments and the footway. In particular, a nearby fence at the side of 38 Starmead Drive (No 38) has a similar stepped alignment to the development, as well as being set back a comparable distance from the main road. Although planning permission was granted prior to adoption of the Development Plan, No 38's fence is an established part of the context in which the visual consequences of the development should be judged. The permitted fence occupies a comparable setting to the fencing in this appeal. The more expansive open space and absence of residential property at the rear of No 38 make little difference to how the permitted fence is perceived in the

- surroundings. Also, tall close board fences situated close to the footway are not untypical of residential frontages along the opposite side of the main road.
9. Besides, the appellant has planted a mixed species deciduous hedge on part of the verge between the fencing and the main road, which also wraps around the fencing at the rear. The new hedge is an extension of an established tall maturing hedge which continues at the roadside for a considerable distance. The new hedge has grown up significantly as well as appreciably increased in density, since the notice was issued. Whilst not as tall or dense as the established hedge, having been planted for some years the new hedge is of substantial height and thickness.
 10. Planting the new hedge between the fencing and the footway has considerably offset any increase in the sense of enclosure at the roadside following erection of the fencing. The softer contours, muted colour tones and more naturalistic appearance of the new hedge also successfully breaks up the harder edges and angular profiles of the fencing, so as to largely mitigate any sense of intrusion in views from the main road. Additional growth as the new hedge reaches maturity will further assist in integrating the fencing with the surroundings, so that over time it would be largely dominated visually by extensive maturing roadside planting, in a similar fashion to the fence at No 38.
 11. Due to the above factors, the development is not seen as an alien feature in its surroundings, it does not contribute to a significantly greater sense of enclosure and there is no appreciable erosion in the well-planted, verdant open spaces at the roadside which form part of the Green Route. A suitable planning condition could be imposed to require the new hedge to be retained, thereby safeguarding the character and appearance of the area. Any risk of the hedge being removed or otherwise significantly reduced in height in the longer term is limited, since doing so is likely to compromise the sense of privacy and seclusion at the property enjoyed by the occupiers.
 12. I have taken the copies of previous appeal decisions concerning 'similar' developments supplied by the Council into account. However, in the absence of further details it is unclear whether the circumstances in these examples are comparable with the development. Indeed, it seems to me that there are significant differences between the examples and the circumstances of the development. One example concerned enclosing open land with a tall masonry wall erected up against the pavement, whilst one referred to enclosing a more substantial grassed area. In another example, the details of the boundary treatment were at issue, not the principle of development. In any event, I have to determine this appeal on the basis of the individual planning merits of the development and in the light of the evidence before me.
 13. Consequently, the development does not cause unacceptable harm to the character and appearance of the surrounding area. There is no inconsistency with the Borough Design Guide Supplementary Planning Document, which in design principle R12 advises that boundary treatments should be designed to contribute positively to the character of the area and the quality of the public realm. The visual impact of the development is not solely associated with the fencing, having regard to the significant landscape planting also undertaken. Design principle R13, which seeks provision of high quality public open space in residential developments, is of limited relevance since as far as I was made aware, the site is privately owned.

14. The development does not conflict with Policy CP1 of the Wokingham Borough Core Strategy Development Plan Document (CS), criterion in which requires developments to maintain or enhance the high quality of the environment. There is also no conflict with CS Policy CP3, criteria in which require proposals to be of an appropriate scale of activity, layout and character to the area together with having a high quality of design and to have no detrimental impact on important landscape features. There is no conflict with LP Policy CC03, criteria in which seek to protect green infrastructure, resist the loss, fragmentation or isolation of such areas and protect landscape features. Nor is there conflict with LP Policy TB21, criterion in which requires proposals to retain or enhance the condition, character and features that contribute to the landscape. Similarly, there is no inconsistency with the Framework, which in chapter 12 seeks to achieve well-designed and beautiful places.

Conditions

15. I shall impose a condition removing 'permitted development' rights set out in Article 3, Schedule 2, Part 1, Classes E and F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended) to construct incidental outbuildings and hard surfaces within the curtilage of a dwelling, as well as those in Part 2 Class A for erecting or altering gates, fences, walls and other means of enclosure. The rights being restricted are precisely defined and the condition is both reasonable and necessary in this instance, in the interests of safeguarding the character and appearance of the surrounding area and protected trees. However, the condition does not extend to removing the right in the GPDO at Part 2, Class B to construct an access to an unclassified road. There is no necessity in doing so, the Council having confirmed that the main road is a Class C highway.
16. Furthermore, after first seeking the views of the main parties and for the reasons set out above, I consider that a condition requiring the new hedge to be retained is reasonable and necessary. Such a condition would also be enforceable, the overall length of the new hedge and the density of planting being well documented.

Conclusion

17. The development does not cause unacceptable harm to the character and appearance of the surrounding area and accords with the Development Plan. There are no material considerations that indicate the ground (a) appeal should be determined other than in accordance with the Development Plan. For the reasons given above, I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore fall to be considered.

Stephen Hawkins

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes E and F of Part 1 and Class A of Part 2 of Schedule 2 to the Order shall be undertaken at the site.
- 2) The hedge planting undertaken in front of the outer faces of the fencing erected in association with the residential use hereby permitted shall be retained at its current length and at the same density of planting. Any plants forming part of the hedge which within a period of 5 years from the date of this permission die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.