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TO THE CHAIRMAN AND MEMBERS OF THE **PLANNING COMMITTEE**

You are hereby summoned to attend a meeting of the Planning Committee to be held on Tuesday, 27 June 2023 at 7.00 pm in the Council Chamber - Civic Offices.

The agenda for the meeting is set out below.

JULIE FISHER
Chief Executive

NOTE: Filming Council Meetings

Please note the meeting will be filmed and will be broadcast live and subsequently as an archive on the Council's website (www.woking.gov.uk). The images and sound recording will also be used for training purposes within the Council. Generally the public seating areas are not filmed. However by entering the meeting room and using the public seating area, you are consenting to being filmed.

AGENDA

PART I - PRESS AND PUBLIC PRESENT

1. Apologies for Absence
2. Declarations of Interest
 - (i) To receive declarations of disclosable pecuniary and other interests from Members in respect of any item to be considered at the meeting.
 - (ii) In accordance with the Officer Procedure Rules, any Officer who is a Council-appointed Director of a Thameswey Group company will declare an interest in any item involving that Thameswey Group company. The interest will not prevent the Officer from advising the Committee on that item.
3. Urgent Business

To consider any business that the Chairman rules may be dealt with under Section 100B(4) of the Local Government Act 1972.
4. Minutes

To approve the minutes of the meeting of the Planning Committee held on 6 June 2023 as published.

Matters for Determination
5. Planning and Enforcement Appeals (Pages 3 - 4)

6. Planning Applications (Pages 5 - 8)

Section A - Applications for Public Speaking

There are no applications under this section.

Section B - Application reports to be introduced by Officers

6a. 2023/0395 Grey Oriental Foods, 25 High Street (Pages 13 - 24)

6b. 2023/0483 Land adjacent to 7 Emperor Avenue (Pages 25 - 36)

6c. TPO/0010/2023 Land to the front of Maybury Wood Cottage (Pages 37 - 54)

6d. 2023/0463 14 Martinsyde (Pages 55 - 72)

Section C - Application Reports not to be introduced by officers unless requested by a Member of the Committee

6e. 2023/0404 1 Randolph Close (Pages 75 - 92)

AGENDA ENDS

Date Published - 19 June 2023

For further information regarding this agenda and arrangements for the meeting, please contact Becky Capon on 01483 743011 or email becky.capon@woking.gov.uk



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PLANNING COMMITTEE – 27 JUNE 2023

PLANNING AND ENFORCEMENT APPEALS

The Committee is requested to:

RESOLVE:

That the report be noted.

The Committee has authority to determine the above recommendation.

Background Papers:

Planning Inspectorate Reports

Reporting Person:

Thomas James, Development Manager.

APPEALS LODGED

2022/0882

Application for the erection of fencing along front and side boundary. (Retrospective) at Turners, The Ridge, Woking, GU22 7EF.

Refused by Planning Committee
21 March 2023.
Appeal lodged
2 June 2023.

APPEALS DECISION

2021/0592

Application for the sub-division of existing rear garden and the erection of a new dwelling, associated landscaping and formation of new access. at Nutfield, Hollybank Road, West Byfleet, Surrey, KT14 6JD

Refused by Delegated Authority
16 July 2021.
Appeal lodged
13 May 2022.
Appeal Dismissed
31 May 2023.

2022/0717

Application for prior Approval for a proposed change of use of an agricultural building to one dwelling (Use Class C3) and associated operational development under Class Q, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) at Teague Farm, Deep Pool Lane, Chobham, Woking.

Refused by Delegated Authority
12 September 2022.
Appeal lodged
28 March 2023.
Appeal Dismissed
5 June 2023.

PLANNING COMMITTEE AGENDA

PLANNING APPLICATIONS AS AT 27 JUNE 2023

This report contains applications which either fall outside the existing scheme of delegated powers or which have been brought to the Committee at the request of a Member or Members in accordance with the agreed procedure (M10/TP 7.4.92/749). These applications are for determination by the Committee.

This report is divided into three sections. The applications contained in Sections A & B will be individually introduced in accordance with the established practice. Applications in Section C will be taken in order but will not be the subject of an Officer's presentation unless requested by any Member.

The committee has the authority to determine the recommendations contained within the following reports.

Key to Ward Codes:

BWB = Byfleet and West Byfleet
GP = Goldsworth Park
HO = Horsell
KNA = Knaphill
PY = Pyrford

C = Canalside
HE = Heathlands
HV = Hoe Valley
MH = Mount Hermon
SJS = St. Johns



Applications: 5

Item: 0006A
Case ref: PLAN/2023/0395
Recommendation: Refuse
Ward: Canalside
Address: Grey Oriental Foods, 25 High Street, Woking, Surrey, GU21 6BW

Item: 0006B
Case ref: PLAN/2023/0483
Recommendation: Permit
Ward: Canalside
Address: Land Adj 7 Emperor Avenue, Sheerwater, Woking, Surrey

Item: 0006C
Case ref: TPO/0010/2023
Recommendation: Confirm
Ward: Mount Hermon
Address: Land to the front of Maybury Wood Cottage

Item: 0006D
Case ref: PLAN/2023/0463
Recommendation: Refuse with Enforcement
Ward: Mount Hermon
Address: 14 Martinsyde, Woking, Surrey, GU22 8HT

Item: 0006E
Case ref: PLAN/2023/0404
Recommendation: Refuse with Enforcement
Ward: Knaphill
Address: 1 Randolph Close, Woking, Surrey, GU21 2NF

Section A -

Section B – A - C

Section C – D - E

SECTION A

**APPLICATIONS ON WHICH
PUBLIC ARE ELIGIBLE
TO SPEAK**

(Note: Ordnance Survey Extracts appended to the reports are for locational purposes only and may not include all current developments either major or minor within the site or the area generally)

SECTION B

**APPLICATIONS WHICH WILL BE
THE SUBJECT OF A PRESENTATION
BY OFFICERS**

(Note: Ordnance Survey Extracts appended to the reports are for locational purposes only and may not include all current developments either major or minor within the site or area generally)

25 High Street, Woking

PLAN/2023/0395

Prior Approval under Class MA, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of part of building from Use Class E (Commercial, Business and Service) to a self-contained flat (Use Class C3).



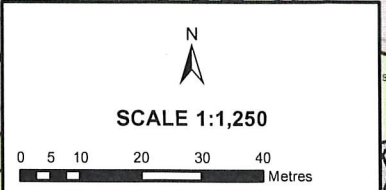
PLAN/2023/0395



25 High Street



Comments



Planning
Woking Borough Council
Civic Offices
Gloucester Square
Woking, Surrey GU21 6YL

6A PLAN/2023/0395

WARD: Canalside

LOCATION: Grey Oriental Foods, 25 High Street, Woking, Surrey, GU21 6BW

PROPOSAL: Prior Approval under Class MA, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of part of building from Use Class E (Commercial, Business and Service) to a self-contained flat (Use Class C3).

APPLICANT: Thamesway Developments Ltd

OFFICER: David Raper

REASON FOR REFERRAL TO COMMITTEE:

The applicant is the Thamesway Developments Ltd which is a Council owned company and thus the application falls outside the Scheme of Delegation.

SUMMARY OF PROPOSED DEVELOPMENT

Prior Approval under Class MA, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of part of building from Use Class E (Commercial, Business and Service) to a self-contained flat (Use Class C3).

PLANNING STATUS

- Urban Area
- Woking Town Centre
- Primary Shopping Area
- Secondary Shopping Frontage
- Site Allocation UA6
- Thames Basin Heaths Special Protection Area (TBH SPA) Zone B (400m-5km)

RECOMMENDATION

REFUSE Prior Approval.

SITE DESCRIPTION

The proposal relates to a ground floor commercial unit in a two storey building with accommodation in the roof space in Woking Town Centre.

RELEVANT PLANNING HISTORY

- 83/1132 – Change of use of part of ground floor from betting shop to estate agents – Permitted

Officers are satisfied that Permitted Development rights on the proposal site are intact.

CONSULTATIONS

- **County Highway Authority (SCC):** No objection subject to conditions.

- **Environmental Health:** No objection.
- **Contaminated Land Officer:** No objection subject to conditions.
- **Drainage and Flood Risk Engineer:** No objection.

REPRESENTATIONS

None received.

RELEVANT PLANNING POLICIES

N/A

PLANNING ISSUES

This application has been made to the Local Planning Authority for a determination as to whether the prior approval of the Local Planning Authority will be required and granted or refused for the change of use of the premises from Use Class E to 1x flat (Use Class C3). The application has been submitted under the provisions of Schedule 2, Part 3, Class MA (commercial, business and service uses to dwellinghouses) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Provisions:

Class MA – commercial, business and service uses to dwellinghouses

Permitted development

MA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

Development not permitted

MA.1.—(1) Development is not permitted by Class MA—

- (a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval; **Compliant***
- (b) unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval; **Compliant***
- (c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres; **Compliant***
- (d) if land covered by, or within the curtilage of, the building—*
 - (i) is or forms part of a site of special scientific interest; **Compliant***
 - (ii) is or forms part of a listed building or land within its curtilage; **Compliant***
 - (iii) is or forms part of a scheduled monument or land within its curtilage; **Compliant***

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- (iv) *is or forms part of a safety hazard area; or **Compliant***
- (v) *is or forms part of a military explosives storage area; **Compliant***

- (e) *if the building is within—*
 - (i) *an area of outstanding natural beauty; **Compliant***
 - (ii) *an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981; **Compliant***
 - (iii) *the Broads; **Compliant***
 - (iv) *a National Park; or **Compliant***
 - (v) *a World Heritage Site; **Compliant***

- (f) *if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or **N/A***

- (g) *before 1 August 2022, if—*
 - (i) *the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and **N/A***

 - (ii) *the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3. **N/A***

- (2) *The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—*
 - (a) *the following classes of the Schedule as it had effect before 1st September 2020—*
 - (i) *Class A1 (shops);*
 - (ii) *Class A2 (financial and professional services);*
 - (iii) *Class A3 (food and drink);*
 - (iv) *Class B1 (business);*
 - (v) *Class D1(a) (non-residential institutions – medical or health services);*
 - (vi) *Class D1(b) (non-residential institutions – crèche, day nursery or day centre);*
 - (vii) *Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;*

 - (b) *on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.*

Prior Approval:

The Local Planning Authority must consider whether prior approval is required. Under the procedure for applications for prior approval under Schedule 2, Part 3, Class MA (commercial, business and service uses to dwellinghouses) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) such proposals can only be considered by the Local Planning Authority insofar as to:

- (a) transport impacts of the development, particularly to ensure safe site access;
- (b) contamination risks in relation to the building;
- (c) flooding risks in relation to the building;

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- (d) impacts of noise from commercial premises on the intended occupiers of the development;
- (e) where—
 - (i) the building is located in a conservation area, and (ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
- (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
- (g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and
- (h) where the development involves the loss of services provided by—
 - (i) a registered nursery, or
 - (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006,the impact on the local provision of the type of services lost; and
- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

Assessment:

Scope of Class MA:

Class MA permits “Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order” (emphasis added). The proposed plans identify external alterations including the replacement of the shopfront with two windows and masonry and on the rear elevation two doors would be replaced with a window and a roller shutter serving a proposed cycle store. These external alterations would require planning permission in their own right (there are no ‘Permitted Development’ rights for such alterations) and the proposed works go beyond the scope of works permitted by Class MA, which only permits the change of use of a building. The proposed habitable rooms would be reliant on these external alterations and no planning permission for these alterations exist, nor is it possible to permit these alterations under this Prior Approval application.

The proposed development includes building operations which goes beyond the scope of Class MA, which permits the change of use of buildings. The proposed works do not therefore fall within the limitations of Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Unit Sizes:

Section 3(9A) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that “*Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse-*

- (a) *Where the gross internal floor area is less than 37 square metres in size; or*
- (b) *That does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015”.*

This provision was inserted by Statutory Instrument No.1243; the associated Explanatory Memorandum states that the above requirement came into effect on 06.04.2021 and applies

to applications submitted on or after this date. The above therefore applies to the current application.

The proposal involves the creation of a two bedroom flat with an internal floor area of 96.3m² which exceeds the relevant requirement for a two bedroom, four person flat (70m²) in accordance with the National Technical Housing Standards (2015). The proposal therefore complies with Section 3(9A) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

(a) transport impacts of the development, particularly to ensure safe site access;

The Council's Parking Standards SPD (2018) sets minimum parking standards for residential developments. For two bedroom flats the minimum standard is 1x space per dwelling. No dedicated parking provision is identified however the SPD states that parking provision below the minimum standards can be considered in Woking Town Centre. The proposal site is in a particularly sustainable location in Woking Town Centre and in this instance the proposal is considered acceptable in parking terms. The County Highway Authority has undertaken an assessment on safety, capacity and policy grounds and raises no objection. There is sufficient scope for cycle and bin storage to the rear.

Considering the points discussed above, no objection is raised in terms of transport and highways impacts of the development subject to conditions. Overall the proposal is considered to result in an acceptable transportation impact.

(b) contamination risks in relation to the building;

The Council's Scientific Officer raises no objection on the basis that there would be no deep groundworks or residential gardens. The proposal is therefore considered acceptable in this regard.

(c) flooding risks in relation to the building;

The proposal site is within Flood Zone 1 and is not classified as being at risk from surface water flooding. The Council's Drainage and Flood Risk Engineer has reviewed the application and raises no objection. No objection is therefore raised on flood risk grounds.

(d) impacts of noise from commercial premises on the intended occupiers of the development;

The proposal site sits within a frontage of commercial buildings where ground floor units comprise a variety of commercial uses. No Noise Assessment has been submitted however the nearest commercial uses are an Estate Agents and Recruitment Agency (Use Class E) which are relatively innocuous uses in terms of noise. The Council's Environmental Health Team has reviewed the proposal and raises no objection.

No objection is therefore raised in terms of impacts of noise from commercial premises on the intended occupiers of the development subject to conditions.

(e) the impact of the change of use on the character or sustainability of the conservation area;

N/A

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

Paragraph W(2A) of Part 3 states that "*Where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses*".

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The two bedrooms of the proposed residential unit would be reliant on a relatively small window and a door on the rear elevation. Due to the high density urban location of the proposal site, these windows would be located in relatively close proximity to the three storey rear elevations of buildings to the north which are likely to restrict the amount of daylight available. The main living/dining and kitchen area would be reliant on a relatively small section of glazed shop front and this part of the flat would have a relatively deep and narrow floor plan. This is likely to restrict the amount of light available to this space and has the potential to create a gloomy and oppressive living environment. No Daylight and Sunlight Report has been submitted. The LPA cannot therefore be satisfied that the proposal would achieve adequate natural light in all habitable rooms.

It has not been demonstrated that there would be adequate natural light in all habitable rooms of the proposed dwelling. The proposal is therefore contrary to Paragraphs MA.2(2)(f) and W(2A) of Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and
N/A

(h) the impact on the local provision of the type of services lost where the development involves the loss of services provided by a registered nursery, or a health centre maintained under section 2 or 3 of the National Health Service Act 2006:
N/A

(i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building:

Paragraph MA.3 of Part 3 states that:

“Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will-

(a) contain two or more dwellinghouses; and

(b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of The Town and Country Planning (Development Management Procedure) (England) Order 2015”

Paragraph 3 of Article 9A (fire statements) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 states that:

“(3) The height condition is that—

(a) the building is 18 metres or more in height; or

(b) the building contains 7 or more storeys”

The building in question is not more than 18m or seven storeys in height and Paragraph MA.2(2)(i) is not therefore applicable.

Thames Basin Heaths Special Protection Area (TBH SPA):

The Borough of Woking lies within the development control remit of a Special Protection Area (The Thames Basin Heaths Special Protection Area (TBH SPA). Regulation 75 of The Conservation of Habitats and Species Regulations 2017 states that it is a condition of any planning permission granted by a general development order made on or after 30th November 2017 which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the Local

Planning Authority under Regulation 77 (approval of Local Planning Authority) of The Conservation of Habitats and Species Regulations 2017. Natural England has demonstrated that the new population arising from residential developments at a distance of up to 5km from the TBH SPA can have a “*significant effect*” by causing disturbance to the breeding of rare bird populations, due to the impact of residents’ recreational activities, particularly walking and walking with dogs. As such if prior approval were granted under Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) such approval would be conditional upon approval under Regulation 77 of The Conservation of Habitats and Species Regulations 2017 being received. An appropriate informative is therefore recommended to advise the applicant of this.

Following recent European Court of Justice rulings, a full and precise analysis of the measures capable of avoiding or reducing any significant effects on European sites must be carried out at an ‘Appropriate Assessment’ stage rather than taken into consideration at screening stage, for the purposes of the Habitats Directive (as interpreted into English law by the Conservation of Habitats and Species Regulations 2017 (the “Habitat Regulations 2017”). An Appropriate Assessment has therefore been undertaken for the site as it falls within 5 kilometres of the TBH SPA boundary. The Appropriate Assessment concludes that there would be no adverse impact on the integrity of the TBH SPA providing the SAMP financial contribution is secured through a S106 Legal Agreement. For the avoidance of doubt, sufficient SANG at Horsell Common has been identified to mitigate the impacts of the development proposal.

Local Finance Considerations:

The Community Infrastructure Levy (CIL) does not normally apply to the change of use of buildings because the existing floor space of in-use buildings can be taken into account in calculating the CIL liability. ‘In-use’ buildings are defined in the Community Infrastructure Levy Regulations (2019) (as amended) as being in lawful use for a continuous period of at least six months within the past three years. The applicant has confirmed that the building has been in lawful use and so the proposal is not CIL liable.

The proposal is SAMP (TBH SPA) liable in terms of the Thames Basin Heaths SPA Avoidance Strategy tariff; the required contribution would be **£897** based on 1x two bedroom flat however this figure may change subject to indexation.

CONCLUSION & RECOMMENDATION

It is therefore recommended that Prior Approval is required and REFUSED for the following reasons:

01. It has not been demonstrated that there would be adequate natural light in all habitable rooms of the proposed dwelling. The proposal is therefore contrary to Paragraphs MA.2(2)(f) and W(2A) of Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
02. The proposed development includes building operations which goes beyond the scope of Class MA, which permits the change of use of buildings. The proposed works do not therefore fall within the limitations of Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Informatives

1. The plans and documents relating to the development hereby refused are the following which were received by the LPA on 27.04.2023:

L.01 (Location Plan)

B.01 (Block Plan)

P.01 (Proposed Site Layout)

P.02 (Existing Ground Floor Plans)

P.03 Rev.D (Proposed Ground Floor Plan)

P.04 (Existing Front and Rear Elevations)

P.05 (Existing Side Elevations)

P.06 Rev.B (Proposed Front and Rear Elevations)

P.07 (Proposed Side Elevations)

Application Form

Sheerwater, Woking

PLAN/2023/0483

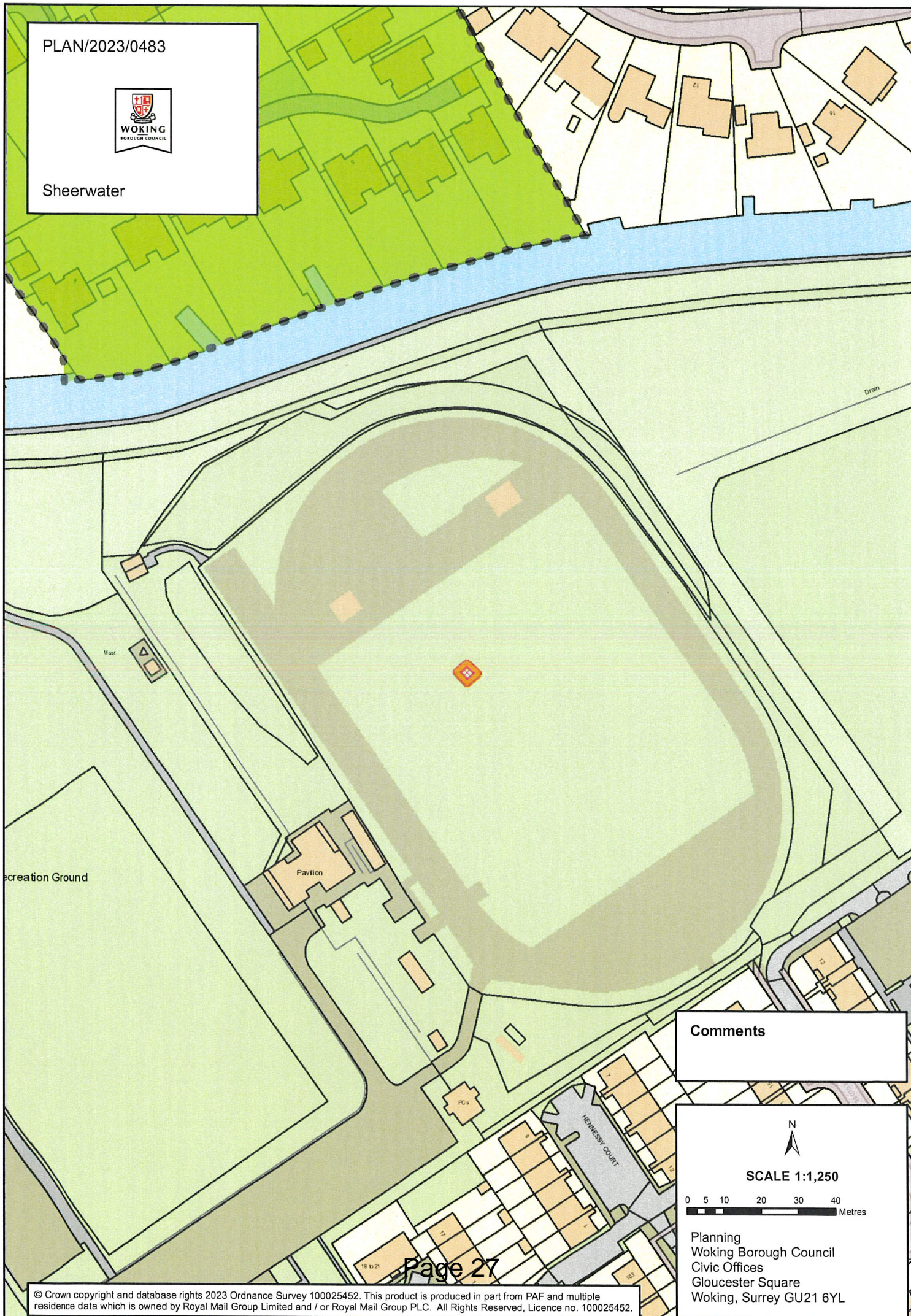
Installation of 1no. new OSCP cabinet and 2No. Light feeder pillars (cabinets) (existing OSCP cabinet to be removed)



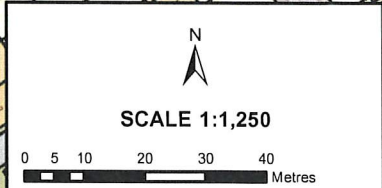
PLAN/2023/0483



Sheerwater



Comments



Planning
Woking Borough Council
Civic Offices
Gloucester Square
Woking, Surrey GU21 6YL

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6b PLAN/2023/0483

WARD: CANALSIDE

LOCATION: Land adjacent to 7 Emperor Avenue, Woking, Surrey.

PROPOSAL: Installation of 1no. new OSCP cabinet and 2No. Light feeder pillars (cabinets) (existing OSCP cabinet to be removed).

APPLICANT: ThamesWey Group

OFFICER: Joanne Hollingdale

REASON FOR REFERRAL TO COMMITTEE

The applicant is the ThamesWey Group which is a Council owned company and thus the application falls outside the Scheme of Delegation.

SUMMARY OF PROPOSED DEVELOPMENT

The application seeks planning permission for the installation of 1no. new OSCP cabinet and 2No. Light feeder pillars (cabinets) (existing OSCP cabinet to be removed).

The 1no. OSCP cabinet would measure 2.1m in width by 0.7m in depth with a height of around 1.8m. The 2no. light feeder cabinets would each measure 0.6m in width by 0.3m in depth with a height of around 0.9m. All cabinets would be dusty grey (RAL7037) in colour.

The OSCP cabinet will be the cabinet providing fibre to each dwelling for broadband and TV purposes and the two light feeder pillars would power the street/external lighting in the development.

PLANNING STATUS

- Urban Area
- Thames Basin Heaths SPA Zone B (400m-5km)
- Priority Place
- Flood Zone 1 and 2 (some areas of the Sheerwater Regeneration area)
- Basingstoke Canal Conservation Area & SSSI (nearby)
- Local Centre (Sheerwater Local Centre nearby)

RECOMMENDATION

That authority be delegated to the Development Manager (including any other Authorised Officer) to **Grant** planning permission subject to:

- (i) no letters of objection being received from the current consultation period which expires on 29.06.2023; and
- (ii) the planning conditions set out in this report.

SITE DESCRIPTION

This application relates to a very small part of the central area of Phase 1c (Copper) of the residential development for the Sheerwater Regeneration. The small central area is located at the central crossroads junction and will comprise a small hard

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surfaced amenity area containing a substation (including a parking space for maintenance vehicles to the substation) and planting. The substation has been constructed although the land around the substation including the nearby houses are still under construction.

Phase 1c (Copper) is located mostly on the site of the former athletics track which has been replaced at Hoe Valley School, Mayford and also includes some of the area to the west of the track and a small section of the car park serving the existing community facilities. The phase abuts the Basingstoke Canal to the north and the Bishop David Brown School sports pitches to the east. Vehicular access into the phase would be by Spencer Close.

RELEVANT PLANNING HISTORY

The most relevant planning history for this application is as follows:

PLAN/2018/0374 - Section 73 application to remove Condition 26 (bund), to vary Condition 4 (approved plans insofar as they relate to the Leisure Centre and sports pitches), Condition 23 (phase 1b playing fields timeline), to submit details to satisfy Condition 21 (on/off-site drainage works), Condition 27 (drainage details for phase 1a(i)), Condition 28 (drainage details for phase 1a(ii)), Condition 29 (drainage details for phase 1a(iii)), Condition 30 (drainage details for phase 1b), Condition 52 (external materials for Leisure Centre), Condition 53 (details of finished floor levels for Leisure Centre), Condition 54 (sustainability - substitution of combined heat and power plant with a ground source heat pump) and amendments to wording of Condition 36 (phase 1c details of front boundary enclosures), Condition 38 (phase 1c biodiversity enhancement measures), Condition 43 (phase 1c external materials), Condition 45 (phase 1c details of bin storage areas), Condition 46 (phase 1c details of photovoltaic panels), Condition 47 (phase 1c sustainability measures), Condition 49 (protection of residential properties from noise), Condition 51 (phase 1c details of play area/trim trail delivery) to alter the timing for the submission of details for approval, of planning permission PLAN/2015/1260 for the redevelopment of the Sheerwater Estate. Permitted 18.04.2019 subject to a S106 Legal Agreement and Executive Obligations.

CONSULTATIONS

SCC County Highway Authority: Any comments received will be reported verbally.

SCC/SuDS: As there is no change to the impermeable area we would have no further comments.

WBC Contaminated Land Officer: Based on the information/proposals (placement of cabinets bolted to the ground) and minimal or no ground disturbance I have no comments to make.

WBC Arboricultural Officer: There are no arboricultural objections to the proposal.

REPRESENTATIONS

None received to date - none of the dwellings in the immediate vicinity of the proposed cabinets are completed/occupied.

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF) (2021)

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Woking Core Strategy (2012)

CS9 - Flooding and Water management

CS16 - Infrastructure Delivery

CS17 - Open space, green infrastructure, sport and recreation

CS18 - Transport and accessibility

CS21 - Design

CS24 - Woking's landscape and townscape

CS25 - Presumption in favour of sustainable development

Development Management Policies Development Plan Document (DM Policies DPD) (2016)

DM2 - Trees and landscaping

DM5 - Environmental Pollution

DM8 - Land Contamination and Hazards

DM22 - Communication infrastructure

Supplementary Planning Documents (SPDs)

Outlook, Amenity, Privacy and Daylight (2022)

PLANNING ISSUES

01. The main planning issues to consider in determining this planning application are the principle of development and the effects on the amenity area, character and appearance of the area and neighbouring residential amenity having regard to the relevant policies of the Development Plan and any other relevant material planning considerations.

Principle, amenity area, character and appearance of the area

02. Paragraph 114 of the NPPF states that "*advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being*" and that planning decisions should support the expansion of electronic communications networks and should "*prioritise full fibre connections to existing and new developments*". This is supported by Policy C16 of the Woking Core Strategy 2012 and also Policy DM22 of the DM Policies DPD 2026 where the supporting text states that the policy seeks to ensure that acceptable provision can be made for communications including 'next generation broadband' whilst ensuring the impact on environment, visual and residential amenity is minimised.
03. These policies support, in principle, the provision of communications infrastructure, particularly fibre, such as the larger cabinet, to new developments subject to other detailed considerations.
04. In this case the 3no. cabinets would be located on the hard surfaced central amenity area. Policy CS17 seeks to prevent the loss of open/amenity space and Policy CS17 applies to this area because it will form an area of open/amenity space.
05. This central area of hard surfaced amenity space was always intended to have a dual function i.e. to provide space for the substation to serve the development and also provide an informal amenity area at the crossroads junction in the centre of the phase. The substation has been installed on site, however as the development will be served by fibre (to provide broadband and TV connectivity)

27 JUNE 2023 PLANNING COMMITTEE

- 1no. cabinet is required for the 88no. panels to connect to each dwelling and the 2no. light feeder pillar cabinets will power the street/external lighting for the development. Planning permission is required in this case because there are no permitted development rights for these installations.
06. No overall loss of the amenity open space will occur, although 3no. new cabinets would be added to the space. They would be well sited in relation to the existing substation building and they would be positioned on areas which were already intended to be hard surfaced. Whilst the cabinets would be additional structures in the amenity area, they would be very small and would not impair the use of the amenity area or its function as informal amenity space for residents.
 07. In terms of visual amenity paragraph 126 of the NPPF states that *“the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development”*. Policies CS21 and CS24 of the Woking Core Strategy 2012 seek high quality new development to *“respect and make a positive contribution to the street scene and the character of the area in which they are situated...[and] Incorporate landscaping to enhance the setting of the development”* and *“provide a positive benefit in terms of landscape and townscape character, and local distinctiveness”*.
 08. The larger fibre (OSCP) cabinet would be sited so that it is viewed against the side elevation of the substation building. This cabinet would be around 1.8m in height and coloured grey (the substation doors are also coloured grey). Either side of the fibre cabinet would be two planting beds. The two smaller light feeder pillar cabinets would be around 0.9m high and whilst their position would be offset from the existing substation building, on three sides, these would also be surrounded by a planting bed. A planning condition (condition 4) is included to secure the proposed landscaping.
 09. Although the cabinets would be viewed within the amenity area and the immediate vicinity, they would provide essential infrastructure for the new residential development, they would not impair the use of the amenity area and would be well sited and viewed in context of the much larger substation building. The whole amenity area would also have some tree planting as well as further shrub planting.
 10. A green coloured cabinet has been previously installed on the site and it is proposed that this will be removed and replaced with the 3no. cabinets the subject of this application. As the existing cabinet is more prominently sited than the proposed cabinets, given the acceptability of the 3no. cabinets as part of the well-planned small amenity area it is considered reasonable and necessary to require the removal of the existing cabinet within 1 month of the installation of any of the new cabinets (condition 1).
 11. In light of these considerations the proposed 3no. cabinets are not considered to result in any overall loss of the amenity area or result in any visual harm to the character and high quality appearance of this area as designed/envisaged in the original development proposals. Subject to conditions, the proposed development would comply with policies CS16, CS17, CS21 and CS24 of the Woking Core Strategy 2012, Policy DM22 of the DM Policies DPD 2016 and the NPPF.

27 JUNE 2023 PLANNING COMMITTEE

Neighbouring amenity

12. Policy CS21 of the Woking Core Strategy 2012 states that proposals for new development should achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or an overbearing effect due to bulk, proximity or outlook.
13. Given the proposed location of the cabinets and their size and height, no adverse impacts would result to the amenities of the future occupiers of the nearest neighbouring dwellings.

Other matters

14. The application site does not fall within an area at risk of fluvial (i.e. river) flooding and a new surface water drainage system would be installed as part of the new development. The cabinets would be on an area that was approved with impermeable paving and thus would not adversely affect the approved surface water drainage system. The proposal is considered to comply with Policy CS9 of the Woking Core Strategy 2012.
15. The roads within the centre of the phase would be private and given the positioning of the cabinets, they would not adversely affect any visibility splays at the adjacent junction, or from the neighbouring driveway to No. 7 Emperor Close (adjacent dwelling). The proposal is considered to comply with Policy CS18 of the Woking Core Strategy 2012.
16. As there would be minimal or no ground disturbance no contamination issues are raised and the proposal is considered to comply with Policies DM5 and DM8 of the DM Policies DPD. In any event it should also be noted that the phase as a whole is subject to contamination verification (condition 28 of PLAN/2018/0374).

Local finance considerations

17. As this application relates to structures/building “into which people do not normally go” the proposal is not Community Infrastructure Levy (CIL) liable/chargeable.

Conclusion

18. For the reasons set out within this report, the proposed development would comply with the policies of the Development Plan, and other material considerations, including the NPPF. It is recommended that authority be delegated to the Development Manager (including any other authorised officer) to grant planning permission following the expiry of the site/press notice period (on 29.06.23) and no letters of objection being received.

BACKGROUND PAPERS

Planning file PLAN/2023/0483

Site visit photographs

RECOMMENDATION

That authority be delegated to the Development Manager (including any other

27 JUNE 2023 PLANNING COMMITTEE

Authorised Officer) to **Grant** planning permission subject to:

- (i) no letters of objection being received from the current consultation period which expires on 29.06.2023; and
- (ii) the planning conditions set out in this report.

Conditions

01. The development hereby permitted shall be installed in accordance with the application details and approved plans within 6 months from the date of this planning permission and within 1 month from the date of installation of any of the cabinets hereby approved the existing cabinet on the site (coloured green) shall be permanently removed from the site along with any debris arising.

Reason: To accord with the provisions of Section 91 (1) of The Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004) and to protect the visual amenities of the area.

02. The development hereby permitted shall be carried out in accordance with the approved plans listed below:

OSCP Cabinet and Light Feeder Pillars - Proposed Plan and Elevations (PL-100 Rev A) received on 30.05.23; and
(Landscaping Plan) Cabinet Mark Up (SHE-EN-XX-00-DR-L-105 Rev P03) received on 30.05.23

Reason: For the avoidance of doubt and to ensure that the development is completed in accordance with the approved plans.

03. The external colour of the 3no. cabinets hereby approved shall be RAL 7037 – dusty grey in perpetuity, unless otherwise first approved in writing by the Local Planning Authority.

Reason: To protect the visual amenities of the area.

04. All landscaping shall be carried out in accordance with the details shown on the approved plans in the first planting season (November-March) following the installation of the 3no. cabinets or as part of the installation/landscaping of the wider amenity area within which the proposal sits whichever is the sooner and shall be maintained thereafter. Any retained or newly planted trees, shrubs or hedges which die, become seriously damaged or diseased or are removed or destroyed within a period of 5 years from the date of planting shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity and biodiversity and to preserve and enhance the character and appearance of the locality.

Informatives

1. The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements the National Planning Policy Framework 2021.

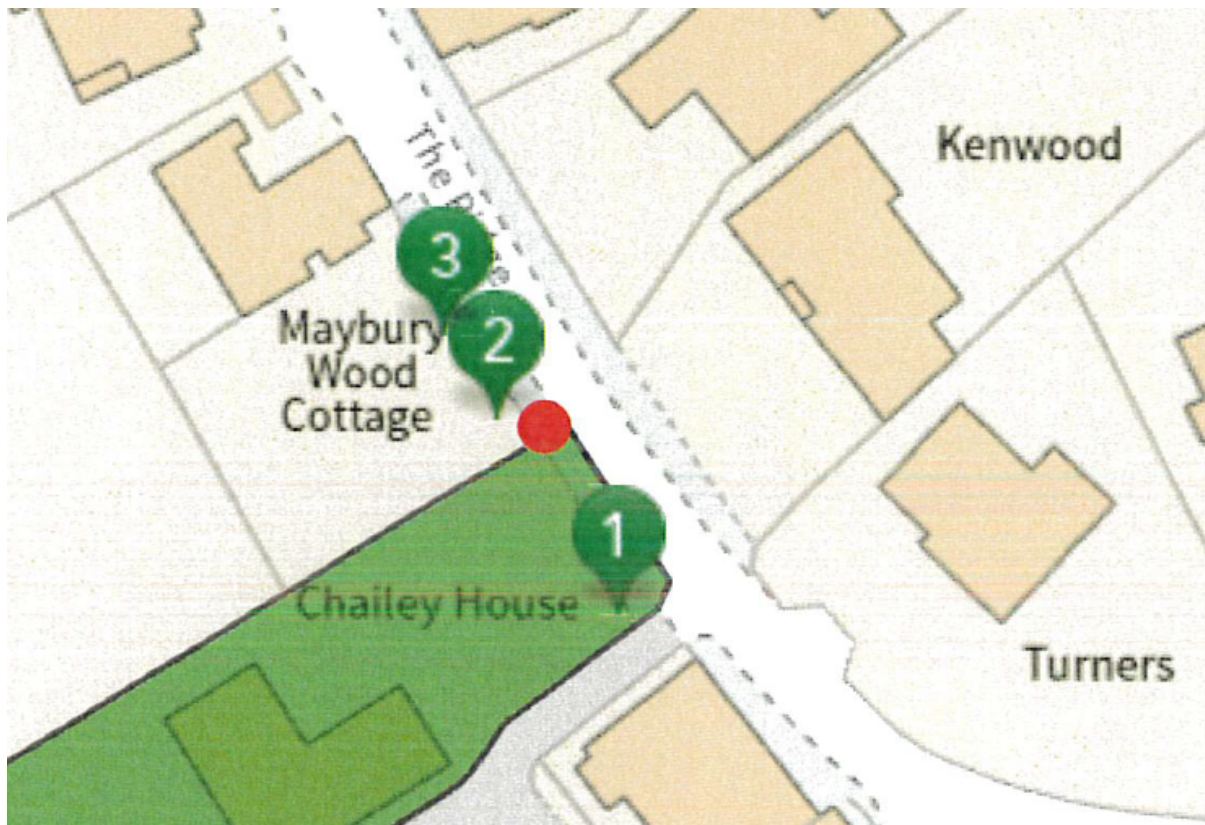
27 JUNE 2023 PLANNING COMMITTEE

2. You are advised that Council officers may undertake inspections without prior warning to check compliance with approved plans and to establish that all planning conditions are being complied with in full. Inspections may be undertaken both during and after construction.
3. The applicant is advised that under the Control of Pollution Act 1974, works which will be audible at the site boundary will be restricted to the following hours:-
 - 8.00 a.m. - 6.00 p.m. Monday to Friday
 - 8.00 a.m. - 1.00 p.m. Saturday
 - and not at all on Sundays and Bank Holidays.

Land to the front of Maybury Wood Cottage

TPO/0010/2023

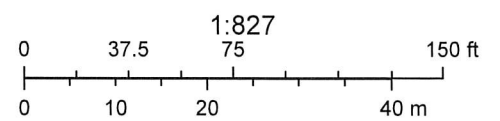
Confirm protection of 3 lime trees.



Land front of Maybury Wood Cottage



6/14/2023, 1:06:38 PM



Tree Preservation Points

- 1 T1
- 2 T2



T3



Tree Preservation Polygons

Utility - OS Topographic Area

PLANNING COMMITTEE – 27 JUNE 2023

CONFIRMATION OF TREE PRESERVATION ORDER REF. TPO/0010/2023 – LAND TO THE FRONT OF MAYBURY WOOD COTTAGE, THE RIDGE, WOKING, GU22 7EG

Executive Summary

The purpose of this report is to recommend to the Committee that a Tree Preservation Order be confirmed following the receipt of one letter of objection and two letters of support to the making of the Order. The Tree Preservation Order protects three Lime trees on land to the front of Maybury Wood Cottage, The Ridge, Woking, GU22 7EG

Recommendations

The Committee is requested to:

RESOLVE that Tree Preservation Order Ref. TPO/0010/2023 be confirmed without modification

This Committee has authority to determine the above recommendations.

Background Papers:

Plan from Tree Preservation Order showing location of tree

Letters of objection:
Greg and Penny Choyce

Letters of Support:
Chris Tait
Jan Tait

Reporting Officer:

Thomas James
Ext. (74)3435, E Mail: Thomas.james@woking.gov.uk

Contact Officer:

Dave Frye, Arboricultural Officer
Ext. (74)3749, E Mail dave.frye@woking.gov.uk

Introduction

A Tree Preservation Order was made on 15th March 2023 to three Lime trees on land to the front of Maybury Wood Cottage, The Ridge, Woking, GU22 7EG **Appendix 1.**

1.1 The plan showing the site location **Appendix 2.**

1.2 One objection and two supporting statements were received to the making of the Tree Preservation Order. These are show in **Appendix 3.**

1.3 Notwithstanding the objections received to the making of the Tree Preservation Order, the recommendation is that it be confirmed without modification.

2.0 Background Information

2.1 Maybury Wood Cottage is situated on a private road in a residential area. This road connects in three directions to two public roads, these roads being Pembroke Road and Maybury Hill **Appendix 2.**

2.2 On the 7th Feb 2023 the council received a planning application for the subdivision of existing plot at Maybury Wood Cottage and erection of a detached, 2 storey dwelling and associated landscaping works REF:PLAN/2023/0057.

During the consultation process of planning applications, the councils tree officer are advised that a proposal has been submitted. A site visit is then undertaken to assess the likely impact the development may have on trees. If it is felt that trees may be affected by the proposed an assessment is undertaken to determine if the loss of those trees would be of detriment to the character of the area. If it is determined that there would be a negative result from tree loss then a TPO may be issued.

2.3 The trees sit in front of the proposed location for the new dwelling. Given the foreseeable threat to the trees as a result of development a TPO was issued.

3.0 Letters of objection

4.0 One letter of objection was received by the Council on the 20th March 2023 by Greg and Penny Choyce **Appendix 3.**

4.1 There objection disagrees that the trees are of high amenity value and that the trees are a nuisance and should therefore not be protected by a TPO

4.2 The objection also states that if the TPO prevents the construction of a quality detached house then removal of these trees would be supported.

4.3 Grounds for objection –

- At street level the trunks are undistinguished in comparison to other tree species such as Redwoods.
- At high levels, the trees lack the appeal that mature Oaks in the Heathlands and the Cedars in Chailey House, Ridgeway House and Maybury Knowle have in them.
- If it is necessary for the trees to be cut down to allow for the development of a quality detached house then there would support for their removal.

4.4 Supporting statement (Chris Tait) **Appendix 3** -

- This statement outlines the overall character of the area and accepts there have been changes to many houses in The Ridge. It also states that the trees form an integral part of the Ridge's character and should be retained.
- The supporting statement also states that the trees add so much character and have a positive impact on the street scene.

4.5 Supporting statement (Jan Tait) **Appendix 3** -

- The trees in question are a lovely part of the neighbourhood and have high amenity value and they make a significant contribution to the leafy character of The Ridge.
- The supporting statement is neutral in reference to the proposed development at Maybury Wood Cottage but has stated that any entry/exit point should avoid destruction to the trees and wall.

4.6 **The Tree Officer's response to the objections received is as follows:**

- The trees amenity can be justified by the fact that they are located to the front of the property adjacent to the road. Whilst the road is private and does not act as a through road from one public area to another, there are multiple residential properties which can see the trees and would be affected by their removal.
- The sylvan character of the area is considered to be high and all trees which are protected in the area add to the value of the local treescape. The three lime trees in question add to that sylvan character. When considered individually it could be considered that there are other trees in the area which will continue to add to the local treescape, however, it is important to consider that it is a collection of individual trees which create a sylvan treescape. Therefore the loss of these trees may encourage further tree loss in the area and ultimately reduce the sylvan character of the area.
- The council has carried out a TEMPO assessment **Appendix 4** which has determined that a TPO is "Definitely merits TPO". As identified within the TEMPO guidance notes a definitely merits TPO is "trees scoring 16 or more are those that have passed both the amenity and expediency assessments, where the application of a TPO is fully justified based on the field assessment exercise".

5.0 **Implications**

Financial

5.1 None

Human Resource/Training and Development

5.2 None

Environmental/Sustainability

6.0 **Conclusions**

6.1 Given the trees high public amenity value and the threat from removal, protection of the trees is considered appropriate and it is recommended that the Tree Preservation Order be confirmed without modification.

REPORT ENDS



Woking Borough Council

Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL

**TOWN AND COUNTRY PLANNING (Tree Preservation) (England)
Regulations 2012**

TREE PRESERVATION ORDER

Town and Country Planning Act 1990

The Land to the Front of Maybury Wood Cottage The Ridge Woking (TPO/0010/2023)

The Woking Borough Council, in exercise of the powers conferred on them by section of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

1. This Order may be cited as the Land to the Front of Maybury Wood Cottage The Ridge Woking (TPO/0010/2023).

Interpretation

2.

1. In this Order “the authority” means the Woking Borough Council.
2. In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3.

1. Subject to article 4, this Order takes effect provisionally on the date on which it is made.
2. Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - a. cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - b. cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition



4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Arboricultural Officer Signature

Signed:  _____

Printed: JAMES VIKATS

Date: 15/3/2023

Authorised Officer Signature:

I endorse the action taken by the Authorised Officer.

Signed:  _____

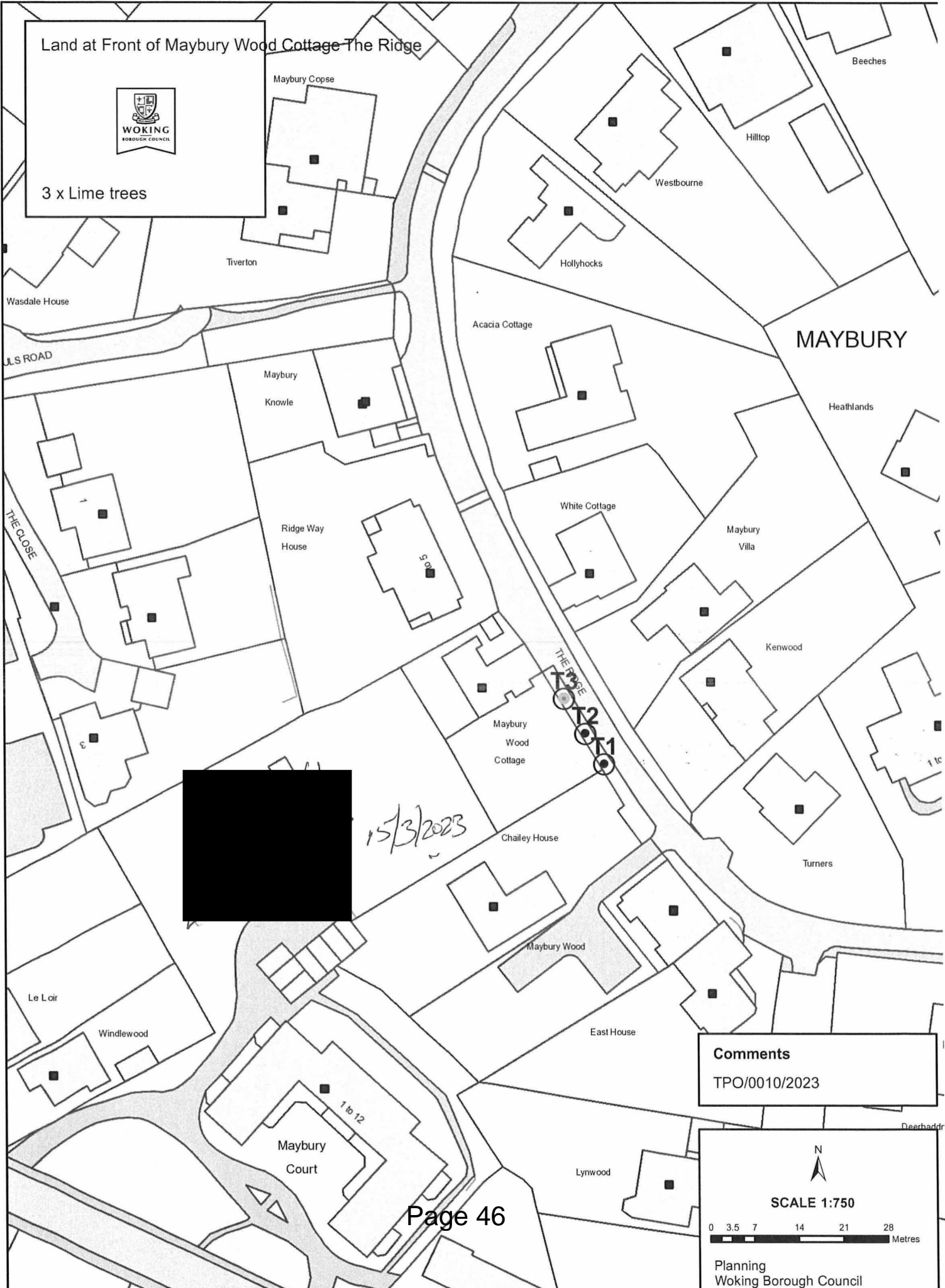
Printed: D FREELAND

Date: 15/3/23

Land at Front of Maybury Wood Cottage The Ridge

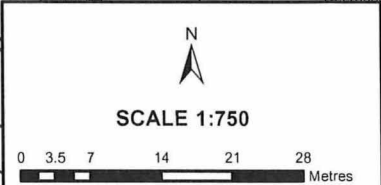


3 x Lime trees



15/3/2023

Comments
TPO/0010/2023



SCHEDULE

SPECIFICATION OF TREES

Trees specified individually

(encircled in black on the map)

Reference on map	Description	Situation
T1	Lime tree	Mature Lime approx 18m tall with a DBH of 800mm
T2	Lime tree	Mature Lime approx 18m tall with a DBH of 800mm
T3	Lime tree	Mature Lime approx 18m tall with a DBH of 800mm

Trees specified by reference to an area

(within a dotted black line on the map)

Reference on map	Description	Situation
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Groups of trees

(within a broken black line on the map)

Reference on map	Description	Situation
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Woodlands

(within a continuous black line on the map)

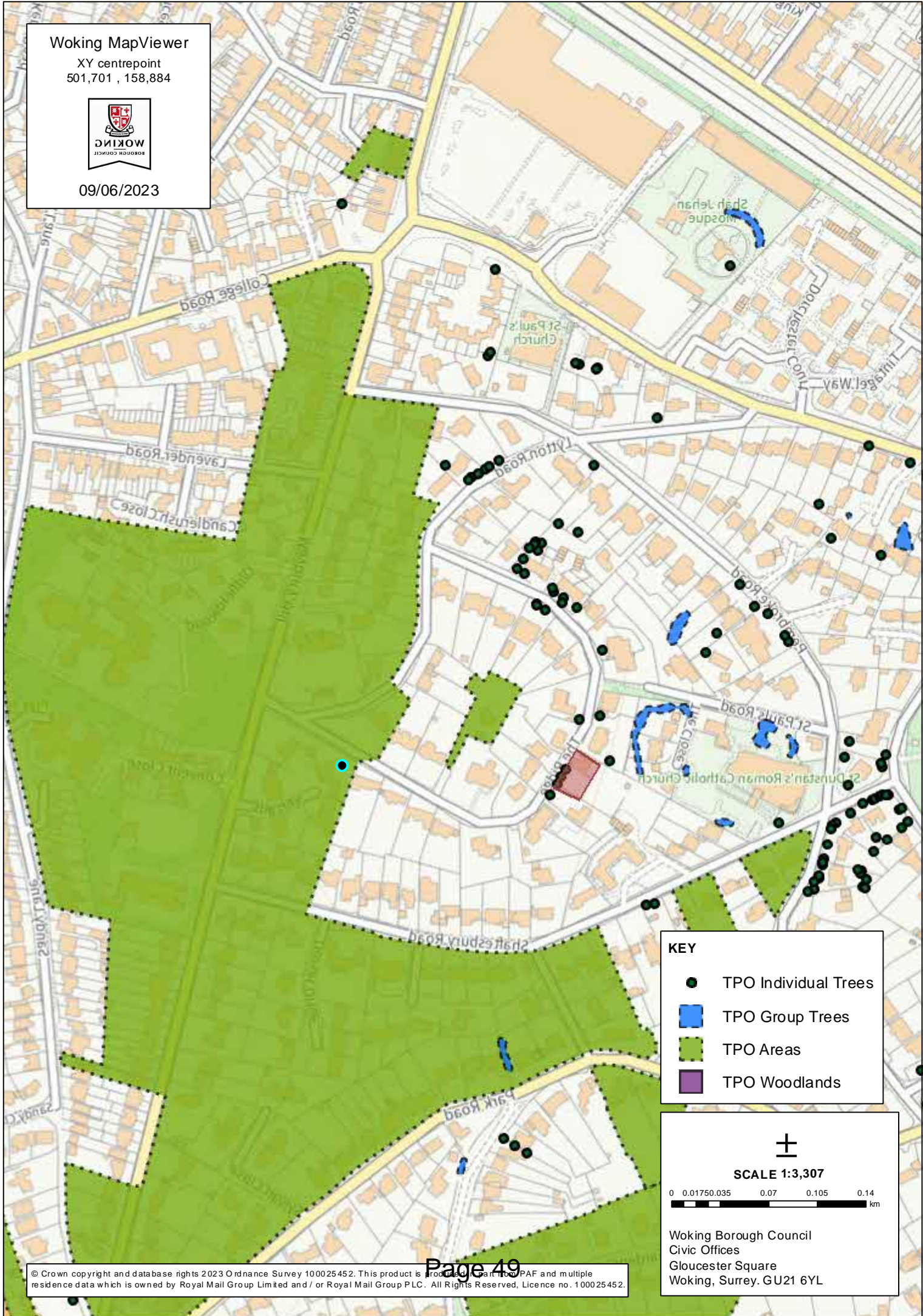
Reference on map	Description	Situation
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Woking MapViewer

XY centrepoint
501,701 , 158,884



09/06/2023



KEY

- TPO Individual Trees
- TPO Group Trees
- TPO Areas
- TPO Woodlands

±

SCALE 1:3,307

0 0.01750,035 0.07 0.105 0.14 km

Woking Borough Council
Civic Offices
Gloucester Square
Woking, Surrey. GU21 6YL

Christine Duplock

From: James Veats
Sent: 20 March 2023 14:51
To: Christine Duplock
Subject: FW: TPO/0010/2023

Hi Christine ,
Please can this email be attached to the TPO as an objection. We shall have to take this to committee prior to confirming.
Many thanks
James

James Veats | Senior Arboricultural Officer | Planning Services | Phone: 01483 743739

Woking Borough Council, Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL
Phone: 01483 755855 | Web: www.woking.gov.uk
For general enquiries, please call Woking Borough Council's Contact Centre on 01483 755855

[REDACTED]

Sent: 20 March 2023 14:32
To: James Veats <James.Veats@woking.gov.uk>
Subject: TPO/0010/2023

Dear Mr Veats

We refer to the notice we received last week, saying that three limes trees have been made subject to a TPO, prompted it seems by a planning application to erect a new detached house in the grounds of Maybury Wood Cottage.

We live opposite the lime trees. Our position is that the trees should not be protected if that would prevent the planning application being granted.

It is difficult to know how to counter the assertion (unevidenced) in the notice that the trees have 'high public amenity value' and 'make a significant contribution to the character of the area'. All we can say if we disagree, as follows. At street level, which is what most people passing by will see, the trunks are undistinguished unlike say a redwood or a catanea. At a higher level, the trees lack the appeal of the mature oaks in Heathlands or the nearby cedars in Chailey House, Ridgeway House and Maybury Knowle.

At a practical level, the trees are a nuisance. They drop unattractive and hard to clean yellow/lime pollen for several months over the summer. They are also a cause of hay fever in our family. In high winds they have shed branches including on occasion large ones which have struck our cars.

In short, if it is necessary for the trees to be cut down to allow a quality detached house to be built, we would support their removal.

Please could you confirm that our comments will be taken into account by the Council when deciding on the future of the TPO.

Regards

[REDACTED]

Christine Duplock

From: James Veats
Sent: 11 April 2023 09:25
To: Christine Duplock
Subject: FW: TPO/0010/2023

Hi Christine,
Please can you add this to the file.
Many thanks
James

James Veats | Senior Arboricultural Officer | Planning Services | Phone: 01483 743739

Woking Borough Council, Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL
Phone: 01483 755855 | Web: www.woking.gov.uk
For general enquiries, please call Woking Borough Council's Contact Centre on 01483 755855

[REDACTED]
Sent: 10 April 2023 20:29
To: James Veats <James.Veats@woking.gov.uk>
Cc: Wokbc <Woking.BC@woking.gov.uk>
Subject: TPO/0010/2023

Dear Mr Veats,

Re TPO/0010/2023- Land to the front of Maybury Wood Cottage, The Ridge, GU22 7EG

As a resident of the Ridge, in my opinion, the trees in question are a lovely part of the neighbourhood and have high public amenity value, making a significant contribution to the leafy character of The Ridge. I would therefore like them to be retained.

My comments on the planning application for a further house on the divided land of Maybury Wood Cottage are neutral, but I would like the applicant to consider an alternative entry/exit point if at all possible, to avoid the destruction of the trees and attractive wall.

Kind regards,

Jan Tait [REDACTED]

Christine Duplock

From: James Veats
Sent: 11 April 2023 09:26
To: Christine Duplock
Subject: FW: Re TPO/0010/2023- Land to the front of Maybury Wood Cottage, The Ridge, GU22 7EG

And this one as well. Many thanks

James Veats | Senior Arboricultural Officer | Planning Services | Phone: 01483 743739

Woking Borough Council, Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL
Phone: 01483 755855 | Web: www.woking.gov.uk
For general enquiries, please call Woking Borough Council's Contact Centre on 01483 755855

[REDACTED]

Sent: 10 April 2023 20:21
To: James Veats <James.Veats@woking.gov.uk>
Subject: Re TPO/0010/2023- Land to the front of Maybury Wood Cottage, The Ridge, GU22 7EG

Dear Mr Veats, re the trees mentioned above.

I live in The Ridge and understand that there has been a temporary TPO placed on the three trees. I would like to say that I support the retention of the TPO as the trees form an integral part of the Ridge's character. Their height and spacing show that, whilst there have been many changes to the houses in the road, The Ridge itself has been established for many years. They help retain its Arcadian feel.

I realise that the removal of the trees is a part of a planning application at Maybury Wood Cottage. I have written on that subject (remaining neutral) but can see that there may be a way of achieving the proposer's aims without removing these three mature trees.

With many changes to the housing stock in The Ridge I would urge the council to retain the TPO so that these trees can continue to add so much character and positive impact to the street scene.

Can you please confirm receipt?

Thank you

Regards

Chris Tait

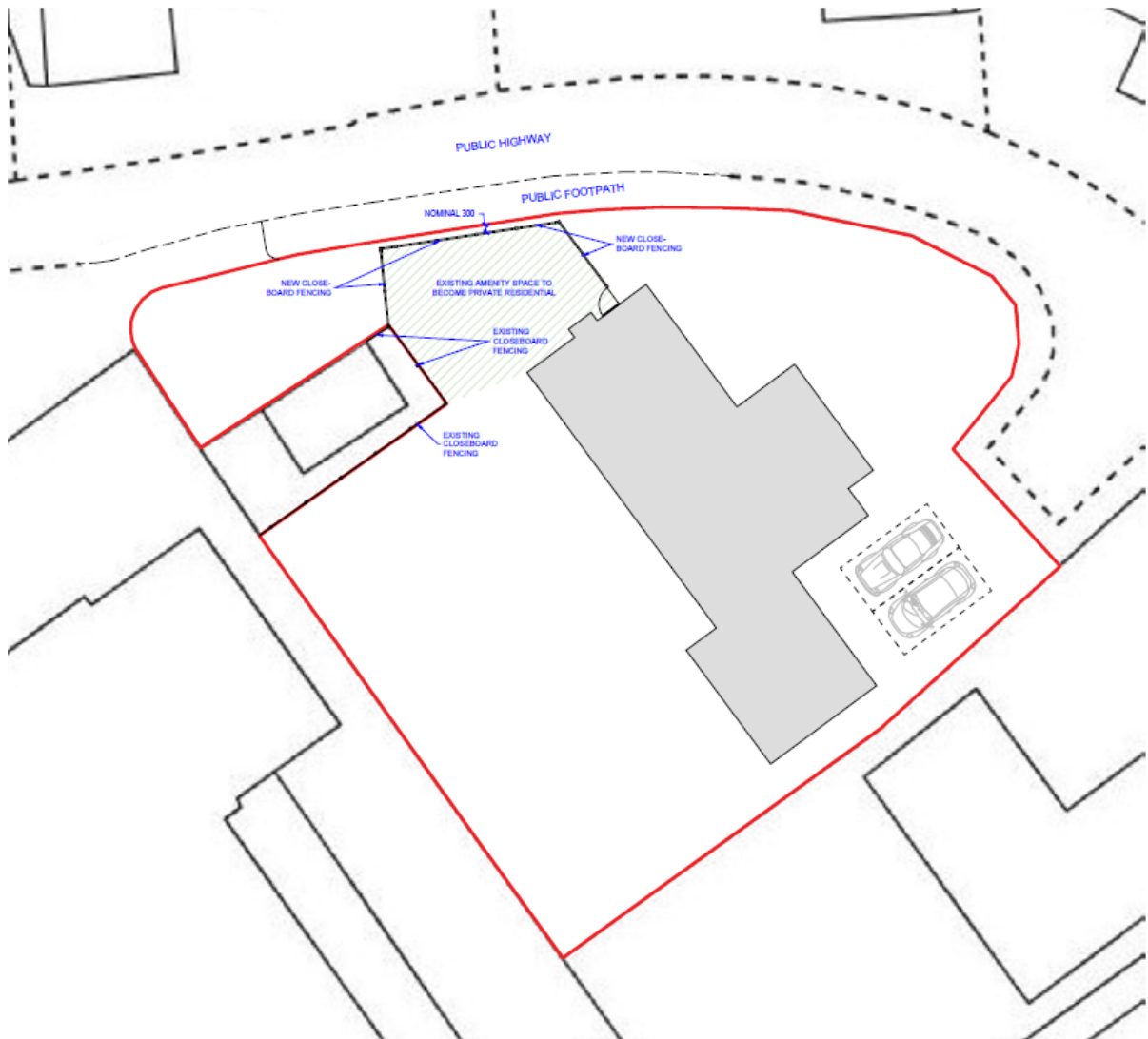
[REDACTED]

TEMPO ASSESSMENT	
Date: 15th March 2023	Surveyor: DF
Tree Details: Three lime trees to the front	
Part 1: Amenity assessment	SCORE
a) Condition & suitability for 5) Good - Highly suitable 3) Fair/satisfactory - Suitable 1) Poor - Unlikely to be suitable 0) Dead/dying/dangerous* - Unsuitable * Relates to existing context and is intended to apply to severe irremediable defects only	5
b) Retention span (in years) & suitability for TPO 5) 100+ - Highly suitable 4) 40-100 - Very suitable 2) 20-40 - Suitable 1) 10-20 - Just suitable 0) <10* - Unsuitable *Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality	4
c) Relative public visibility & suitability for TPO Consider realistic potential for future visibility with changed land use 5) Very large trees with some visibility, or prominent large trees Highly suitable 4) Large trees, or medium trees clearly visible to the public - Suitable 3) Medium trees, or large trees with limited view only - Suitable 2) Young, small, or medium/large trees visible only with difficulty - Barely suitable 1) Trees not visible to the public, regardless of size - Probably unsuitable	4
d) Other factors Trees must have accrued 7 or more points (with no zero score) to qualify 5) Principal components of formal Arboricultural features, or veteran trees 4) Tree groups, or principal members of groups important for their cohesion 3) Trees with identifiable historic, commemorative or habitat importance 2) Trees of particularly good form, especially if rare or unusual 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) -1) Trees with poor form or which are generally unsuitable for their location	4
Part 2: Expediency assessment	
Trees must have accrued 10 or more points to qualify 5) Immediate threat to tree inc. s.211 Notice 3) Foreseeable threat to tree 2) Perceived threat to tree 1) Precautionary only	2
Part 3: Decision guide	
Any 0 - Do not apply TPO 1-6 - TPO indefensible 7-11 - Does not merit TPO 12-15 - TPO defensible 16+ Definitely merits TPO	19
Decision	Definitely Merits TPO
Further Information: Tree is subject to a planning application Footpaths and visible from road Group of trees	

14 Martinsyde

PLAN/2023/0463

Retrospective application for change of use from amenity land to private residential and associated removal of existing closeboard timber fence and construction of new closeboard timber fence.



PLAN/2023/0463



14 Martinsyde



Comments

N

SCALE 1:1,250

0 5 10 20 30 40 Metres

Planning
Woking Borough Council
Civic Offices
Gloucester Square
Woking, Surrey GU21 6YL

27 JUNE 2023 PLANNING COMMITTEE

6d PLAN/2023/0463

WARD: MH

LOCATION: 14 Martinsyde, Woking, Surrey, GU22 8HT

PROPOSAL: Retrospective application for change of use from amenity land to private residential and associated removal of existing closeboard timber fence and construction of new closeboard timber fence.

APPLICANT: Mr & Mrs S Gardner

OFFICER: Benjamin Bailey

REASON FOR REFERRAL TO COMMITTEE

The recommendation includes enforcement action and the decision on whether to issue an Enforcement Notice falls outside the Scheme of Delegations.

SUMMARY OF PROPOSED DEVELOPMENT

Retrospective application for change of use from amenity land to private residential and associated removal of existing closeboard timber fence and construction of new closeboard timber fence.

PLANNING STATUS

- Urban Area
- Surface Water Flood Risk (Very High/High/Medium – All partial)

RECOMMENDATION

Refuse planning permission and authorise enforcement action.

SITE DESCRIPTION

No.14 Martinsyde is a two storey detached house located within a 1990s development of residential properties on land off the south side of East Hill. No.14 is externally finished in facing brick, with brown window frames, and demonstrates half-hipped, tiled roofs. It benefits from a subordinate attached element to its side (south-east), which was originally a garage and has since been converted into habitable space, with further accommodation provided at first floor level above. A private garden area is provided to the rear (south-west), being laid largely to lawn and ornamental planting, with a patio area close to the rear of the house, a shed is located within the rear garden. The frontage is 'open plan' and laid to lawn and ornamental planting. On-site car parking is provided on a driveway in front of the (now converted) original attached garage.

RELEVANT PLANNING HISTORY

PLAN/2017/0737 - Retrospective application for erection of a wooden shed in rear garden (amended description).
Permitted subject to conditions (30.08.2017)

PLAN/2016/1036 - Amendment to previously approved application PLAN/2015/0310 for the proposed removal of garage doors and insertion of two windows in the front elevation (amended description).

27 JUNE 2023 PLANNING COMMITTEE

Permitted subject to conditions (01.11.2016)

PLAN/2015/0310 - Extension of garage to merge a dwelling and conversion of space into habitable accommodation including rear roof dormer to facilitate loft conversion with the erection of a single storey side extension.

Permitted subject to conditions (18.05.2015)

PLAN/1992/0405 - Erection of 43 dwellings with associated access road, garages and parking following demolition of existing school building and dwelling house and erection of management store.

Permitted subject to conditions (20.01.1993)

CONSULTATIONS

None undertaken

REPRESENTATIONS

x2 letters of representation have been received objecting to the application raising the following points:

- Having referred to the documents and living on the road, do not believe this retrospective planning application should be allowed.
- Martinsyde has an open aspect with large swathes of amenity land that enhance the road appearance.
- Having been built in the 1990s, it is also worth noting the commonality of planting and aesthetic approach found throughout the road has been maintained.
- The fencing that has been constructed has been taken right up to the edge of the footpath. Clearly if every property was to adopt the same approach, then the road would feel like a prison camp. Whilst a number of the properties on Martinsyde sit on privately owned mini cul-de-sacs, number 14 does not, and believe it is inappropriate for the fence to be taken to the verge in this way.
- Urge Woking Council to take action in this case.
- The fence being so close to the pavement is too much and spoils the road.
- Have spoken with other neighbours who are also not happy, we don't think this should be allowed.

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF) (2021)

Section 2 - Achieving sustainable development

Section 4 - Decision-making

Section 12 - Achieving well-designed places

Woking Core Strategy (2012)

CS17 - Open space, green infrastructure, sport and recreation

CS21 - Design

CS24 - Woking's landscape and townscape

CS25 - Presumption in favour of sustainable development

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Development Management Policies Development Plan Document (DM Policies DPD) (2016)

DM2 - Trees and landscaping

Supplementary Planning Documents (SPDs)

Design (2015)

Outlook, Amenity, Privacy and Daylight (2022)

Other Material Considerations

Planning Practice Guidance (PPG) (online resource)

Community Infrastructure Levy (CIL) Charging Schedule (2015)

BACKGROUND

This planning application is retrospective in nature and has been submitted following an enforcement complaint and investigation, which has established that there are breaches of planning control.

In this case the breaches of planning control are the material change of use of the amenity land to residential garden and the erection of close boarded timber fencing which exceeds 1 metre in height adjacent to a highway. The Committee is requested to note that even though land adjacent to a residential property may be within the ownership of person(s) together with that residential property, it does not necessarily follow that the lawful use of the adjoining land is residential use. In this case the original layout for the housing development within Martinsyde shows that the now enclosed amenity land (together with the adjoining parking space seemingly originally associated with the adjoining 'management store') fell outside the fenced enclosure to the residential garden of the house of No.14 Martinsyde. The area of unenclosed land (formerly) laid to lawn/planting also displayed the characteristics of 'amenity land,' which is an area that is landscaped for the benefit and enhancement of the development as a whole, rather than a private garden associated with a residential use. There is a similar arrangement to other nearby properties within Martinsyde.

The planning application form states that the work or change of use started on 15/06/2022 and was completed on 15/07/2022.

PLANNING ISSUES

01. The main planning issues to consider in determining this planning application are the effects on:
- Character and appearance of the area;
 - Neighbouring amenity;
 - Other matters; and
 - Local finance considerations
- having regard to the relevant policies of the Development Plan, other relevant material planning considerations (including Supplementary Planning Documents) and national planning policy and guidance.

Character and appearance of the area

02. Policy CS21 (Design) of the Woking Core Strategy (2012) states, amongst other things, that "*Proposals for new development should...Create buildings and places that are attractive with their own distinct identity; they should respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height,*

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proportions, building lines, layout, materials and other characteristics of adjoining buildings and land [and] Incorporate landscaping to enhance the setting of the development, including the retention of any trees of amenity value, and other significant landscape features of merit, and provide for suitable boundary treatment/s” (emphases added).

03. Policy CS24 (Woking’s landscape and townscape) of the Woking Core Strategy (2012) states that “*All development proposals will provide a positive benefit in terms of landscape and townscape character, and local distinctiveness*” (emphasis added).
04. Policy CS17 (Open space, green infrastructure, sport and recreation) of the Woking Core Strategy (2012) is also considered applicable in this instance. The preamble to the policy states (at para 5.146) that “*Green infrastructure relates to a network of multi-functional open space and other environmental features [and that, among others] the following can form part of green infrastructure networks: Natural and semi-natural greenspaces, Amenity greenspace*”. Furthermore, noting the definition of ‘Open space’ in the glossary to the NPPF (2021), which states “*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*”, and thus addresses the role of open space in terms of public value and visual amenity, it is considered that Policy CS17 applies to the area of amenity land in this instance because (prior to its enclosure with fencing) it formed an area of open space of public value which contributed positively to the visual amenity of the area. Whilst, in its former condition, the area of amenity land may not have been actively used, that fails to appreciate the (pre-enclosure) public value of the land in visual amenity terms.
05. Policy CS17 states that “*Development involving the loss of open space will not be permitted unless: alternative and equivalent or better provision is made in the vicinity, or the development is directly related to the enhancement of the open space*”. The proposal results in the loss of open space (to residential garden land) and would not provide alternative and equivalent or better provision in the locality or be directly related to the enhancement of open space. The proposal is therefore contrary to Policy CS17 of the Woking Core Strategy (2012) in this regard.
06. Policy DM2 (Trees and landscaping) of the Development Management Policies Development Plan Document (DM Policies DPD) (2016) states that “*Trees, hedgerows and other vegetation of amenity and/or environmental significance or which form part of the intrinsic character of an area must be considered holistically as part of the landscaping treatment of new development. When considering development proposals, the Council will...(iii) require landscape proposals for new development to retain existing trees and other important landscape features where practicable*”.
07. Paragraph 126 of the National Planning Policy Framework (NPPF) (2021) states that “*The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development*”. The NPPF (2021) also states that planning decisions should ensure that developments, inter alia, “*are visually attractive as a result of good architecture, layout and appropriate and effective landscaping...establish or maintain a strong sense of*

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place, using arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit” (paragraph 130).

08. The ‘Residential extensions’ section (9D) of Supplementary Planning Document (SPD) Design (2015) states that “*Boundary treatment should be well considered and in keeping with the existing building and streetscape*”.
09. No.14 Martinsyde is located within a 1990s development of 43 dwellings which was constructed on land off of the south side of East Hill. The development in Martinsyde was deliberately laid out to include several closes made up of small groups of houses in order to break up the scale of the development and create individual areas. No.14 addresses the ‘main’ road through the development (i.e., it is not within one of the several closes which stem off of the ‘main’ road). The original layout of Martinsyde incorporated notable areas to the front and sides of the houses, particularly to the front and sides of the larger, and detached, houses which directly address the ‘main’ road (as No.14 does), which include areas of lawn, planting, trees and hedges. These soft landscaped areas are informally laid out and create a verdant, spacious, open character to Martinsyde. It must also be noted that the detached houses within Martinsyde (of which No.14 is one) have been designed in an ‘open plan’ manner, without any obvious front boundaries and therefore the front gardens of these properties themselves provide a notable visual amenity to Martinsyde as a whole.
10. Whilst some brick walls and fences are evident (alongside the ‘main’ road) upon entering Martinsyde from East Hill these enclosures are concentrated in the north-eastern part of Martinsyde (i.e., that part closest to the junction with East Hill) and generally form the enclosures to the private garden areas of properties which front the several closes which branch off of this ‘main’ road. In any case, where such brick walls and fences are in place, they are set back notable distances from the ‘main’ road and have planting in front of them. The combination of the setbacks from the ‘main’ road, and the incorporation of planting in front of them, very much softens the appearance of these brick walls and fences.
11. In the case of No.14 the area of land to the side (north-west) was largely designed and laid out as amenity land. The original approved layout of the Martinsyde development, and aerial photography from as recently as 2021, show the (north-west) rear garden boundary fence of No.14 to generally align with the side (north-west) elevation of the house, and therefore to be set back from the back edge of the footway by a minimum distance of around 7 metres, thus heavily reducing the prominence and appearance of that fencing within the street scene.
12. It is evident that there was also formerly a single parking space within the now enclosed area (to its most south-west part). The original approved layout indicates that this parking space was laid out, as part of the original development within Martinsyde in the 1990s, in association with the adjoining ‘management store’, which is a single storey dual-pitched building located to the south-west. This ‘management store’ is not included within the red line of the present application site (nor is it included within any blue line, thus indicating it is not within the applicants ownership) and relatively recent planning application ref: PLAN/2019/1084 at adjoining Greenfield School

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(formerly the International School of London) shows this 'management store' within a blue lined area, indicating that (at that time, 2019) it was within the ownership of the adjoining school.

13. No planning conditions relating to the (former) parking space (or to the adjoining management store) are attached to planning permission ref: PLAN/1992/0405 (for the construction of development within Martinsyde). Whilst this is the case the incorporation of that parking space (together with the adjoining amenity land) into the private garden of the house at No.14 nonetheless represents a material change of use of the land and thus is in breach of planning control. Whilst the area formerly laid out as a parking space had a hard ground surface (seemingly tarmac), and would have been occupied, at least at times, by a parked car it nonetheless was open in nature and thus contributed to the spaciousness, and openness, of this corner, particularly collectively with the (former) adjoining amenity land.
14. In its former position the (north-west) rear garden boundary fence of No.14 generally aligned with the side (north-west) elevation of the house, and therefore was set back from the footway by a minimum distance of around 7 metres. In contrast the close board fencing is now located around 0.3 metres (i.e., 300mm) back from the footway, for a length of around 8 metres. Sections of close board fencing also extend from the side elevation of the house for a length of around 4.5 metres and, at an angle, from the corner of the fencing around the 'management store' by around 3.5m. Therefore, where previously there was a single line of fencing set back substantially from the footway, there is now three lines of fencing, and which extend up to the back edge of the footway. The area of amenity land (and that of the former parking space) which has been enclosed by close boarded fencing measures around 53 sq.m, thus is quite substantial.
15. The relocated fencing is therefore around 6.7 metres closer to the back edge of the footway than the former situation. Its former alignment, together with the circa 6.7 metre wide area of amenity land between the fencing and the footway, afforded the (former) boundary treatment a much more subservient and softer relationship with the Martinsyde street scene. In contrast, the relocated close boarded timber fencing, with concrete posts, appears harsh and unsympathetic to its context.
16. The original layout of the housing in Martinsyde provided for a notably wide area of amenity land between the side of the house/garden at No.14 and the back edge of the footway. This largely soft landscaped area was informally laid out to contribute positively to the verdant, spacious, open character to Martinsyde. That original housing/amenity land layout is shown on the relevant planning permission drawings for the development of housing in Martinsyde (pp ref: PLAN/1992/0405). Collectively the (former) amenity land to the (north-west) side of No.14 combined with other areas of informally laid out soft landscaped areas, and with the 'open plan' style front gardens of the detached houses in this part of Martinsyde (including that of No.14), to create a spacious and attractive landscape setting to the housing within Martinsyde.
17. Given the relative extent of the relocated boundary fencing facing Martinsyde, combined with its height, alignment and its appearance, it has an unduly imposing presence in the Martinsyde street scene. Its corner location increases its prominence in the street scene.

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18. Combined with the loss of amenity land (and the adjoining parking space), the relocated close boarded timber fencing undermines the openness and spaciousness of this part of Martinsyde. Moreover, because of its height and alignment at the back of the footway, the enclosure is also oppressive in the street scene.
19. The 'newness' of the timber of the fence presently appears 'stark', this effect is compounded by the rather harsh appearance of the concrete posts. Whilst the new timber would appear less stark as it weathers, that would take time. In respect of any potential planting 'in front of' the fence this would not be possible because of the positioning of the fence tight against the back edge of the footway (except for a minimal c.0.3m set back), notwithstanding that any such potential realignment of the fence or planting (which the present planning application does not propose in any case) would not address the harmful loss of amenity land.
20. Overall, the development results in unacceptable harm to the character and appearance of the area, contrary to Policies CS21 and CS24 of the Woking Core Strategy (2012), SPD Design (2015) and to paragraphs 126 and 130 of the National Planning Policy Framework (NPPF) (2021). Those policies state, amongst other things, that all development proposals will provide a positive benefit in terms of landscape and townscape character, and local distinctiveness. It must be noted that the harm and policy conflict would not be overcome by reducing the height of the fencing, not least because the alignment and loss of amenity land would remain.
21. The applicant has submitted no supporting/justification statement with the planning application, and (in the absence of such) it appears that the main reason for the enclosure of the amenity land (and adjoining parking space) was to increase the size of the private garden area of the house. It is acknowledged that Policy CS21 of the Woking Core Strategy (2021) also seeks to ensure, inter alia, that "*schemes provide appropriate levels of private...amenity space*", and that incorporating the former amenity land into the private garden area increases the outdoor private amenity space at the house. However, any gain from the enclosure of the amenity land (and adjoining parking space) in this respect is clearly outweighed by the described harm to the character and appearance of the area. Moreover, on the basis of the approved plans for pp ref: PLAN/2016/1036 (which has been built out) the house at the application site provides around 244 sq.m gross floorspace. It is noted that a shed in the rear garden was subsequently permitted under pp ref: PLAN/2017/0737. Taking account of the footprint of that permitted shed (around 12 sq.m) the house has a (lawful) private rear garden area of around 280 sq.m (and of between around 12 and 13 metres depth and around 23 metres width). This area of (lawful) private rear garden readily exceeds the gross floorspace of the house in accordance with the recommendations within SPD Outlook, Amenity, Privacy and Daylight (2022) (for large family dwelling houses) and is consistent with the grain and pattern of development in Martinsyde. As such, it is not considered that the house is deficient in respect of outdoor private amenity space.
22. It is noted that the installed fencing does not extend along the entirety of the (north-west) side elevation of the house (i.e., it is set back from the front elevation of the house) and that the front garden of the house remains 'open

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plan'. However, these factors are not considered to outweigh the harm to the character and appearance of the area which is caused by the enclosure of the amenity land (and adjoining parking space) and the relocated timber fencing.

23. It is acknowledged that planning permission (pp ref: PLAN/2019/0425) was granted in 2019 at nearby No.18 Martinsyde for, inter alia, "*Relocation of fence and change of use of open amenity land to private amenity land*". Each planning application is considered on its individual merits and the delegation report for the application at No.18 states that the area in question "*is one which is only apparent towards the end of the cul-de-sac and therefore apparent to just 3 properties*" and that "*The existing amenity land is primarily enclosed by the vegetation in this section and although a contributing section of amenity space within Martinsyde, it is not considered a significant section of amenity land which requires preserving. The close timber board fencing would be sited approximately 1 metre further forward than the existing vegetation than the existing vegetation and whilst appearing harsh within the street-scene, considering the location of the application site towards the terminus of the cul-de-sac, the area is not deemed to be significantly affected by the change of use. In any affect, it is deemed prudent to attach a condition to any permission to ensure that in the first planting season of the year following erection of the fencing, a landscaping scheme showing vegetation towards the front of the fence shall be submitted to and approved in writing by the Local Planning Authority. This is secure by way of condition (Condition 4)*".
24. The location and context of the enclosed amenity land at nearby No.18 Martinsyde is considered materially different to that of No.14. The land to the (west) side of No.18 is positioned at the very end of the 'main' road of Martinsyde, whereas the land to the side of No.14 is passed by the occupiers of Nos.15-21 Martinsyde (incl.) when those residents are entering or leaving the road and is also located on something of a corner in the main 'road'. There is also no footway passing nearby No.18 and the fencing at nearby No.18 is set back from the road, whereas at No.14 the fencing abuts (except for a minimal c.0.3m set back) the back edge of the footway which passes the land in question. For these combined reasons the grant of planning permission at nearby No.18 is not considered to justify the situation at the application site (No.14).
25. In addition, at the application site it would not be possible to provide any potential planting 'in front of' the fence, as was secured through a planning condition at nearby No.18, because of the (existing) positioning of the fence tight against the back edge of the footway (except for a minimal c.0.3m set back), notwithstanding that any such potential realignment of the fence or planting (which the present planning application does not propose in any case) would not address the harmful loss of amenity land. Furthermore, the c.0.3m set back of the (existing) fence from the back edge of the footway is insufficiently in width for any such planting to establish and survive.
26. Whilst each planning application is considered on its individual merits, in the event this planning application was to be permitted, there is nonetheless a more than reasonable prospect of similar development being able to be repeated elsewhere within Martinsyde. Permitting this planning application would make it more difficult for the Local Planning Authority to resist further applications for such development, thereby compounding the harm to character and appearance which has been identified.

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27. Overall, the loss of amenity land (and adjacent parking space), and the associated relocation of the timber fencing, undermines the openness, spaciousness and attractive informal landscape setting to Martinsyde and has an unduly imposing presence in the Martinsyde street scene which appears harsh and unsympathetic to its context. Furthermore the proposal results in the loss of a parcel of informal open space, which performed a public value function as visual amenity, and fails to provide alternative and equivalent or better provision in the locality or to be directly related to the enhancement of open space. The development fails to respect and make a positive contribution to the character of the area within which it is located, fails to incorporate appropriate and effective landscaping and to provide for suitable boundary treatments, and also fails to provide a positive benefit in terms of landscape and townscape character. The development is therefore contrary to Policies CS17, CS21 and CS24 of the Woking Core Strategy (2012), Policy DM2 of the Development Management Policies DPD (2016), Supplementary Planning Document (SPD) Design (2015) and the provisions of the National Planning Policy Framework (NPPF) (2021) (most notably paragraphs 126 and 130).

Neighbouring amenity

28. Policy CS21 of the Woking Core Strategy (2012) states, inter alia, that *“Proposals for new development should...Achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or an overbearing effect due to bulk, proximity or outlook”*. SPDs Outlook, Amenity, Privacy and Daylight (2022) and Design (2015) provide more detailed guidance in respect of considering/assessing neighbouring amenity impacts.
29. The potential loss of enjoyment of a view is not a ground on which planning permission can potentially be refused although the impact of a development on outlook is a material planning consideration and stems on whether the development would give rise to an undue sense of enclosure or overbearing effect to neighbouring/nearby residential properties. There are no established guidelines for what is acceptable or unacceptable in this regard, with any assessment subjective as opposed to empirical, with key factors in this assessment being the existing local context and arrangement of buildings and uses.
30. In respect of daylight, and where existing habitable room windows/openings are located directly opposite a proposed development, SPD Outlook, Amenity, Privacy and Daylight (2022) (at para 5.9) identifies that suitable daylight is achieved where an unobstructed vertical angle of 25° can be drawn from a point taken from the middle of each of the existing window openings.

Nos.20 & 21 Martinsyde:

31. Nos.20 & 21 Martinsyde are the closest houses to the new fencing/enclosed amenity land (and adjacent parking space) and are two storey detached houses located (to the north) on the opposite side of the ‘main’ road of Martinsyde. Their front elevations face predominantly south towards the application site.
32. The relocated fencing remains between around 5 and 6 metres away from the front garden boundaries of Nos.20 & 21 and further distant from the front

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elevations of Nos.20 & 21. Whilst the new fencing is opposite the front elevations of Nos.20 & 21 it is 'across the street' from them. Moreover, the separation distances between the new fencing and Nos.20 & 21 readily exceed the c.1.9 metre height of the new fencing such that the new fencing avoids significant harmful overbearing effect to Nos.20 & 21. The new fencing passes the 25° angle test for daylighting and thus avoids significant harmful loss of daylight to Nos.20 & 21. Whilst the new fencing is located to the south of Nos.20 & 21 collectively its height, and the retained separation distances, ensure that no significant harmful loss of sunlight arises to Nos.20 & 21.

33. Considering its height and positioning in relation to adjoining and nearby properties, other than Nos.20 & 21 Martinsyde (discussed above), the new fencing and the enclosure of the amenity land (and adjacent parking space) does not give rise to material neighbouring amenity impacts to any other properties. However, the preceding represents only an absence of harm in this respect (i.e., is neutral) and does not outweigh the other harms identified or weigh positively in favour of the proposal.

Other matters

34. The application site does not fall within an area at risk of flooding from rivers (i.e., fluvial risk). Whilst areas of surface water flood risk (Very High/High/Medium – All partial) exist within, and adjacent to, the application site the proposal does not result in any additional built footprint, such that surface water flood risk is not considered to represent a planning constraint in this particular instance. The height and positioning of the relocated fencing is such that it does not give rise to any highway safety issue. Again, the preceding represents only an absence of harm in these respects (i.e., are neutral) and do not outweigh the other harms identified or weigh positively in favour of the proposal.

Requirements of the enforcement notice

35. In this case, the breach of planning control is the material change of use from amenity land (and adjoining parking space) to residential garden and the erection of close boarded timber fencing. The requirements of the enforcement notice therefore need to be, in short, to cease the use of the amenity land (and adjoining parking space) as residential garden, remove the fencing, re-instate the former boundary treatment in its former location, restore the amenity land (and adjoining parking space) to its previous condition and remove all associated materials.
36. It must also be noted that potentially reducing the fencing to 1 metre in height above ground level (although this is not proposed by the applicant) would not remedy the breach of planning control. That is because 'permitted development' (PD) rights do not grant retrospective planning permission and because, moreover, the material change of use of amenity land to residential garden would remain.

Local finance considerations

37. No gross floorspace would result. As such, the proposal is not Community Infrastructure Levy (CIL) liable.

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Conclusion

38. For the reasons set out within this report, the proposed development would conflict with the policies of the Development Plan, and other material considerations, including the NPPF (2021). There are no material considerations that indicate the application should be determined other than in accordance with the Development Plan and other material considerations. Therefore, for the reasons given, it is recommended that planning permission should be refused.
39. It is also considered expedient to serve an Enforcement Notice having regard to the provisions of the Development Plan and to other material considerations. As such, authority is sought to serve an Enforcement Notice. It is considered expedient to take enforcement action for the following reasons:
 1. It appears to the Council that the change of use from amenity land (and adjacent parking space) to residential garden, and the associated erection of new closeboard timber fencing, has occurred within the last ten years and therefore is not immune from enforcement action due to the passage of time.
 2. The loss of amenity land (and adjacent parking space), and the associated relocation of the timber fencing, undermines the openness, spaciousness and attractive informal landscape setting to Martinsyde and has an unduly imposing presence in the Martinsyde street scene which appears harsh and unsympathetic to its context. Furthermore the proposal results in the loss of a parcel of informal open space, which performed a public value function as visual amenity, and fails to provide alternative and equivalent or better provision in the locality or to be directly related to the enhancement of open space. The development fails to respect and make a positive contribution to the character of the area within which it is located, fails to incorporate appropriate and effective landscaping and to provide for suitable boundary treatments, and also fails to provide a positive benefit in terms of landscape and townscape character. The development is therefore contrary to Policies CS17, CS21 and CS24 of the Woking Core Strategy (2012), Policy DM2 of the Development Management Policies DPD (2016), Supplementary Planning Document (SPD) Design (2015) and the provisions of the National Planning Policy Framework (NPPF) (2021) (most notably paragraphs 126 and 130).
 3. The Council does not consider that planning permission should be given because planning objections cannot be overcome by way of condition(s).
 4. Paragraph 59 of the National Planning Policy Framework (NPPF) (2021) states that "*Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control*".
40. The preceding reasons therefore make it expedient to undertake enforcement action and issue the necessary Enforcement Notice. The financial implications including staff resources, the costs of any subsequent appeal, court hearing, legal representation and/or any other costs (including, where appropriate, taking direct action) are all matters that have been considered in the

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preparation of this report. An appeal against an Enforcement Notice could be subject to an application for full or partial award of the Appellant's costs in making an appeal if it were considered that the Council acted unreasonably. If the Planning Committee decide to take enforcement action and the owner decides to exercise their right of appeal, it is considered unlikely that this case would be determined by Public Inquiry and therefore appeal costs to the Council are likely to be comparatively minimal.

BACKGROUND PAPERS

Site visit photographs
x2 Letters of representation

RECOMMENDATION

Refuse planning permission for the following reason(s):

01. The loss of amenity land (and adjacent parking space), and the associated relocation of the timber fencing, undermines the openness, spaciousness and attractive informal landscape setting to Martinsyde and has an unduly imposing presence in the Martinsyde street scene which appears harsh and unsympathetic to its context. Furthermore the proposal results in the loss of a parcel of informal open space, which performed a public value function as visual amenity, and fails to provide alternative and equivalent or better provision in the locality or to be directly related to the enhancement of open space. The development fails to respect and make a positive contribution to the character of the area within which it is located, fails to incorporate appropriate and effective landscaping and to provide for suitable boundary treatments, and also fails to provide a positive benefit in terms of landscape and townscape character. The development is therefore contrary to Policies CS17, CS21 and CS24 of the Woking Core Strategy (2012), Policy DM2 of the Development Management Policies DPD (2016), Supplementary Planning Document (SPD) Design (2015) and the provisions of the National Planning Policy Framework (NPPF) (2021) (most notably paragraphs 126 and 130).

It is further recommended that: -

The Interim Director of Legal and Democratic Services be instructed to issue an Enforcement Notice under Section 172 of The Town and Country Planning Act 1990 (as amended) and Officers be authorised in the event of non-compliance with the Notice to prosecute under Section 179 of the Act, or appropriate power, and/or take direct action under Section 178 in the event of non-compliance with the Notice.

Enforcement action be authorised to issue an Enforcement Notice in respect of the above Land requiring the following within three (3) months of the Notice taking effect:

- (i) Permanently remove the close boarded timber fence and concrete posts from the land;
- (ii) Permanently cease the use of the amenity land (and adjacent parking space) as residential garden;
- (iii) Re-instate the boundary of the residential garden with a wall or fence no greater than 2 metres in height in its previous alignment before the breach took place;

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- (iv) Restore the amenity land (and adjacent parking space) to its previous condition (i.e., lawn except for the parking space which was surfaced in tarmac) before the breach took place;
- (v) Remove from the Land all materials, rubble and debris, including all associated paraphernalia, arising from compliance with the above.

Informatives

01. The plans and particulars relating to the planning application hereby refused are numbered/titled (all rec'd by the LPA on 22.05.2023):

1165 / 01 Rev 01 (Existing Site Plan & Elevations), dated 15.05.2023

1165 / 02 Rev 01 (Proposed Site Plan & Elevations), dated 15.05.2023

1165 / 03 Rev 01 (Site Location and Block Plans), dated 15.05.2023

02. This statement is provided in accordance with Article 35(2) of The Town and Country Planning (Development Management Procedure) (England) Order 2015. Woking Borough Council seeks to take a positive and proactive approach to development proposals. The Council works with applicants in a positive and proactive manner by:

- Offering a planning pre-application advice service; and
- Where possible officers will seek minor amendments and/or additional information to overcome issues identified during the application process.

In this instance the applicant seeks to regularise a breach of planning control and did not seek planning pre-application advice from the Council prior to carrying out the unauthorised development. It was not considered that minor amendments and/or additional information would overcome concerns/issues identified during the application process.

SECTION C

**APPLICATION REPORTS NOT TO BE
PRESENTED BY OFFICERS UNLESS REQUESTED
BY A MEMBER OF THE COMMITTEE**

(Note: Ordnance Survey Extracts appended to the reports are for locational purposes only and may not include all current developments either major or minor within the site or the area generally)

1 Randolph Close, Goldsworth Park

PLAN/2023/0404

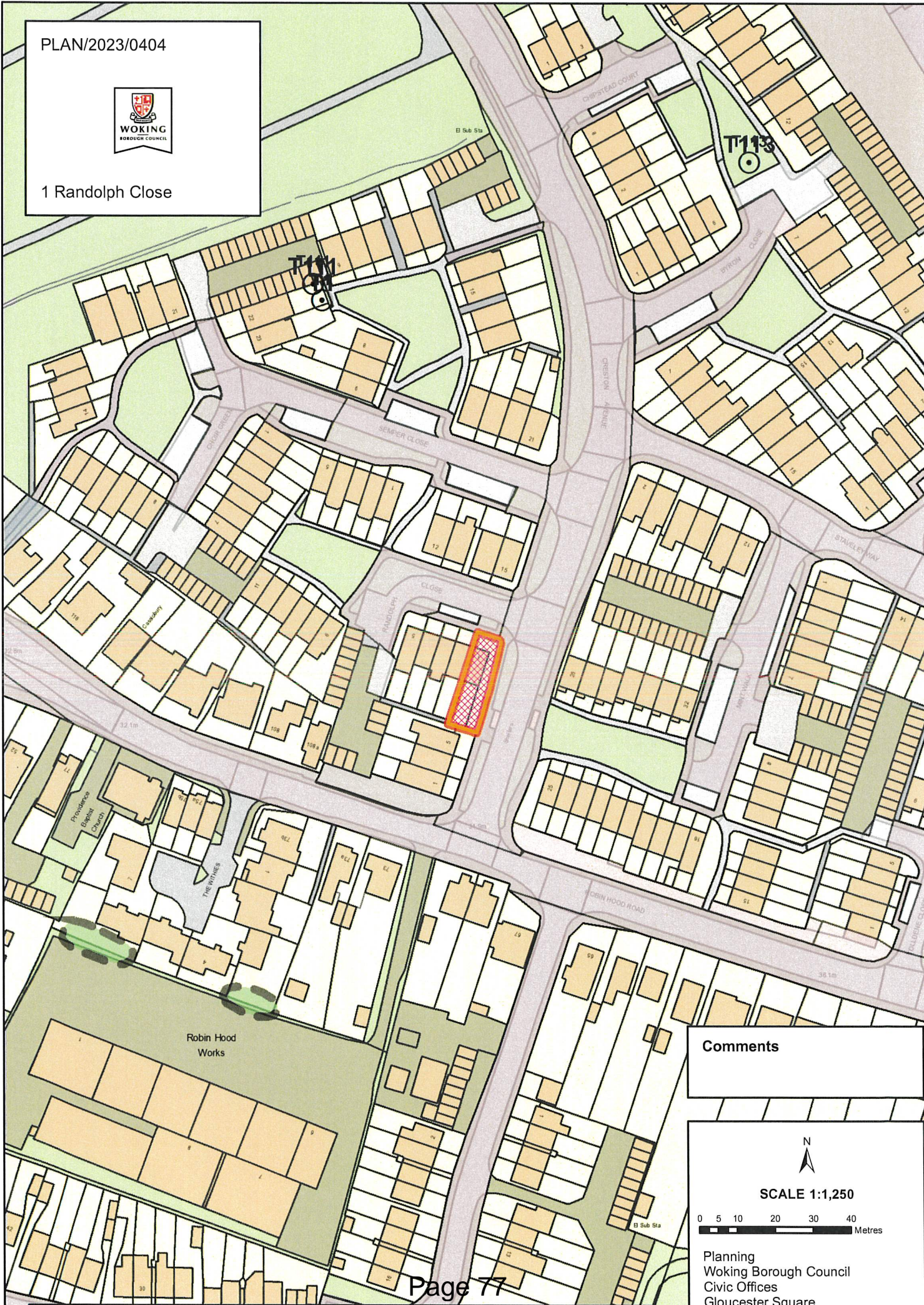
Retrospective application for new 1.8m tall boundary fencing and change of use from amenity land to private residential.



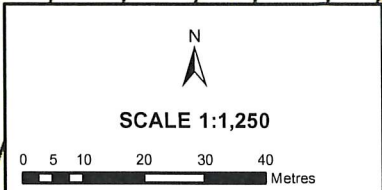
PLAN/2023/0404



1 Randolph Close



Comments



Planning
Woking Borough Council
Civic Offices
Gloucester Square
Woking, Surrey GU21 6YL

6e PLAN/2023/0404

WARD: KNA

LOCATION: 1 Randolph Close, Woking, Surrey, GU21 2NF

PROPOSAL: Retrospective application for new 1.8m tall boundary fencing and change of use from amenity land to private residential.

APPLICANT: C. Sherred, C. Walton

OFFICER: Benjamin Bailey

REASON FOR REFERRAL TO COMMITTEE

The recommendation includes enforcement action and the decision on whether to issue an Enforcement Notice falls outside the Scheme of Delegations.

SUMMARY OF PROPOSED DEVELOPMENT

Retrospective application for new 1.8m tall boundary fencing and change of use from amenity land to private residential.

PLANNING STATUS

- Urban Area

RECOMMENDATION

Refuse planning permission and authorise enforcement action.

SITE DESCRIPTION

No.1 Randolph Close is a two storey end-of-terrace, dual-pitched house located within the Goldsworth Park estate, close to the 'boundary' of the estate with Robin Hood Road. The house presents its side elevation and boundary to Creston Avenue and is externally finished in red facing brickwork, albeit with cladding at first floor level to the front elevation, and with white window frames below a tiled roof. The rear garden is laid to lawn with the exception of a small patio area close to the rear of the house, a small shed is located close to the rear boundary. The frontage is laid to planting and hard landscaping. No on-site parking is provided.

RELEVANT PLANNING HISTORY

87/0261 - Relocation of close boarded fence to perimeter of side and rear garden. Refused (02.06.1987) for the following reason:

- 01. The proposed development would result in the enclosure of a prominent piece of open space, which contributes to the visual amenities and spaciousness of this part of the estate.*

80/1096 - The execution of site works and the carrying out of landscaping works on areas of land not to be adopted at Goldsworth Park, Phase 2, Woking (land off Lockfield Drive, south of site A2). Permitted subject to condition (28.01.1981)

32661 - The demolition of any existing buildings, the execution of site works, the

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erection of 63 (sixty three) bungalows, 125 (one hundred and twenty five) houses, three electricity sub stations, and provision of three play areas and parking areas, 172 garages, on land at Phase II, Goldsworth Park, Woking (Approval of reserved matters following the grant of outline permission No.28268).
Permitted subject to conditions (31.05.1974)

CONSULTATIONS

None undertaken

REPRESENTATIONS

x2 letters of representation have been received in support of the application raising the following points:

- Fully support my neighbours retrospective application [letter received from No.4 Randolph Close]
- I think I have the only property affected by the fencing [letter received from No.5 Creston Avenue] and I have no objections
- The fencing makes the area much tidier now that people are unable to throw their rubbish on the verge or let their dogs foul it

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF) (2021)

Section 2 - Achieving sustainable development

Section 4 - Decision-making

Section 12 - Achieving well-designed places

Woking Core Strategy (2012)

CS17 - Open space, green infrastructure, sport and recreation

CS21 - Design

CS24 - Woking's landscape and townscape

CS25 - Presumption in favour of sustainable development

Development Management Policies Development Plan Document (DM Policies DPD) (2016)

DM2 - Trees and landscaping

Supplementary Planning Documents (SPDs)

Design (2015)

Outlook, Amenity, Privacy and Daylight (2022)

Other Material Considerations

Planning Practice Guidance (PPG) (online resource)

Community Infrastructure Levy (CIL) Charging Schedule (2015)

BACKGROUND

This planning application is retrospective in nature and has been submitted following an enforcement complaint and investigation, which has established that there are breaches of planning control.

In this case the breaches of planning control are the material change of use of the amenity land to residential garden and the erection of close boarded timber fencing which exceeds 1 metre in height adjacent to a highway. The Committee is requested

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to note that even though land adjacent to a residential property may be within the ownership of person(s) together with that residential property, it does not necessarily follow that the lawful use of the adjoining land is residential use. In this case the original layout for the housing development in the local area shows that the now enclosed amenity land fell outside the fenced enclosure to the residential garden of the house of No.1 Randolph Close. It also displayed the characteristics of 'amenity land,' which is an area that is landscaped for the benefit and enhancement of the estate as a whole, rather than a private garden associated with a residential use. There is a similar arrangement to other nearby properties, including to the side of No.15 Randolph Close (to the north-east).

The planning application form states that the work or change of use started on 04/03/2023 and was completed on 11/03/2023.

PLANNING ISSUES

01. The main planning issues to consider in determining this planning application are the effects on:
- Character and appearance of the area;
 - Neighbouring amenity;
 - Other matters; and
 - Local finance considerations
- having regard to the relevant policies of the Development Plan, other relevant material planning considerations (including Supplementary Planning Documents) and national planning policy and guidance.

Character and appearance of the area

02. Policy CS21 (Design) of the Woking Core Strategy (2012) states, amongst other things, that *"Proposals for new development should...Create buildings and places that are attractive with their own distinct identity; they should respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land [and] Incorporate landscaping to enhance the setting of the development, including the retention of any trees of amenity value, and other significant landscape features of merit, and provide for suitable boundary treatment/s"* (emphases added).
03. Policy CS24 (Woking's landscape and townscape) of the Woking Core Strategy (2012) states that *"All development proposals will provide a positive benefit in terms of landscape and townscape character, and local distinctiveness"* (emphasis added).
04. Policy CS17 (Open space, green infrastructure, sport and recreation) of the Woking Core Strategy (2012) is also considered applicable in this instance. The preamble to the policy states (at para 5.146) that *"Green infrastructure relates to a network of multi-functional open space and other environmental features [and that, among others] the following can form part of green infrastructure networks: Natural and semi-natural greenspaces, Amenity greenspace"*. Furthermore, noting the definition of 'Open space' in the glossary to the NPPF (2021), which states *"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*

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amenity”, and thus addresses the role of open space in terms of public value and visual amenity, it is considered that Policy CS17 applies to the area of amenity land in this instance because (prior to its enclosure with fencing) it formed an area of open space of public value which contributed positively to the visual amenity of the area. Whilst, in its former condition, the area of amenity land may not have been actively used, that fails to appreciate the (pre-enclosure) public value of the land in visual amenity terms.

05. Policy CS17 states that *“Development involving the loss of open space will not be permitted unless: alternative and equivalent or better provision is made in the vicinity, or the development is directly related to the enhancement of the open space”*. The proposal results in the loss of open space (to residential garden land) and would not provide alternative and equivalent or better provision in the locality or be directly related to the enhancement of open space. The proposal is therefore contrary to Policy CS17 of the Woking Core Strategy (2012) in this regard.
06. Policy DM2 (Trees and landscaping) of the Development Management Policies Development Plan Document (DM Policies DPD) (2016) states that *“Trees, hedgerows and other vegetation of amenity and/or environmental significance or which form part of the intrinsic character of an area must be considered holistically as part of the landscaping treatment of new development. When considering development proposals, the Council will...(iii) require landscape proposals for new development to retain existing trees and other important landscape features where practicable”*.
07. Paragraph 126 of the National Planning Policy Framework (NPPF) (2021) states that *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development”*. The NPPF (2021) also states that planning decisions should ensure that developments, inter alia, *“are visually attractive as a result of good architecture, layout and appropriate and effective landscaping...establish or maintain a strong sense of place, using arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit”* (paragraph 130).
08. The ‘Residential extensions’ section (9D) of Supplementary Planning Document (SPD) Design (2015) states that *“Boundary treatment should be well considered and in keeping with the existing building and streetscape”*.
09. No.1 Randolph Close is located within Goldsworth Park. Goldsworth Park was developed by New Ideal Homes Ltd and was begun in the 1970s. It contains over 4,500 properties and was implemented over a fifteen year period. The estate was deliberately laid out as closes, clusters and small groups of houses to break up the scale of the development and create individual areas. Residential properties are generally arranged along cul-de-sacs, which branch off the main distributor roads. The housing layout and typology creates a sense of unity throughout the estate.
10. The area of amenity land in this instance measures around 13 metres in length and around 3 metres in width (i.e., it has an area of around 39 sq.m). The relocated fencing is therefore around 3 metres closer to the back edge of the footway than the former situation. The amenity land also slopes down slightly

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towards the (lawful) garden of No.1 Randolph Close, by between around 0.2 metres and 0.4 metres. The combined effect of the spacing between the former fencing and the back edge of the footway, and the slightly lower ground level at which the former fencing was located, is that the former fencing was much less prominent in the Creston Avenue street scene than the present, new fencing.

11. The predominant grain and pattern of development in the local area is of single and two storey semi-detached and terraced houses fronting the cul-de-sacs of Randolph Close, Semper Close, Choir Green and Mint Walk. Only three houses directly front onto this section of Creston Avenue, which is a distributor road (i.e., Nos.1, 3 & 5 Creston Avenue), these are located to the rear (south-west) of the application site. Several houses fronting nearby cul-de-sacs present their side elevations/boundaries to the distributor road of Creston Avenue, including Nos.1 & 15 Randolph Close, Nos.25 & 26 Mint Walk, No.2 Staveley Way and at No.21 Semper Close. There are numerous areas of amenity land within the local area, including a notable space through the middle of Mint Walk. Due to the orientation of the house on the application site, and its corner location, its side (east) elevation/boundary faces onto Creston Avenue.
12. However, as originally designed, the side elevations/boundaries of Nos.1 & 15 Randolph Close aligned with the front elevations of Nos.1, 3 & 5 Creston Avenue (to the south-west). Formerly the side (east) garden fence of the application property aligned with the side elevation of the house itself, and with the front elevations of Nos.1, 3 & 5 Creston Avenue, which have open frontages/front gardens (i.e., there are no front fences or walls at Nos.1, 3 & 5 and their potential installation is precluded via a planning condition attached to the original permission). This original layout of the housing in this area thus provided for a circa 3 metre wide area of amenity land between the side of the house/garden at No.1 Randolph Close and the back edge of the footway, which maintained an openness and spaciousness, particularly when taken together with the further area of amenity land to the side of No.15 Randolph Close (to the north-east) and the open plan frontages/front gardens of Nos.1, 3 & 5 Creston Avenue (to the south-west). That original housing/amenity land layout is shown on the relevant planning permission drawings for the development of housing in the local area (pp refs: 32661 & 80/1096). Collectively the amenity land to the sides of Nos.1 & 15 Randolph Close combines with the open plan frontages/front gardens of Nos.1, 3 & 5 Creston Avenue to create a spacious and attractive landscape setting to this entrance into the Goldsworth Park estate (this entrance being from Robin Hood Road).
13. Given the relative extent of the relocated side boundary fencing facing Creston Avenue, combined with its height, alignment forwards of the front elevations of Nos.1, 3 & 5 Creston Avenue, and its appearance, it has an unduly imposing presence in the Creston Avenue street scene. It dominates the entrance to Creston Avenue (when entering from Robin Hood Road) and because of its corner location, is prominent in views from both Creston Avenue and Robin Hood Road.
14. The new, relocated fencing now extends up to, and in line with, the back edge of the footway and therefore is located forwards of the front elevations of Nos.1, 3 & 5 Creston Avenue, whereas previously it was set back from both the footway and generally aligned with the front elevations of Nos.1, 3 & 5. That former alignment, together with the circa 3 metre wide area of amenity land between the fencing and the footway, afforded the boundary treatment a much

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more subservient and softer relationship with the Creston Avenue street scene. In contrast, the relocated close boarded timber fencing, with concrete posts, appears harsh and unsympathetic to its context.

15. Combined with the loss of amenity land, the relocated close boarded timber fencing undermines the openness and spaciousness of this part of the Goldsworth Park estate. Moreover, because of its height and alignment at the back of the footway, the enclosure is also somewhat oppressive to pedestrians.
16. In this instance it is also a material consideration that planning permission was refused at the application site in June 1987 for a form of development which is almost identical to that for which retrospective planning permission is presently sought. Planning permission was refused in 1987 for the "*Relocation of close boarded fence to perimeter of side and rear garden*" because "*The proposed development would result in the enclosure of a prominent piece of open space, which contributes to the visual amenities and spaciousness of this part of the estate*" (ref: 87/0261). Whilst the 36 year age of that planning decision is acknowledged it must nonetheless be afforded weight in the determination of the present planning application because it relates to the same application site and an almost identical form of development.
17. The applicant has submitted a document with the planning application, which contains photographs of similar timber fencing at nearby No.2 Staveley Way and at No.1 Chipstead Court. The example at No.2 Staveley Way includes timber fencing of a similar height and which is located at the back edge of the footway. The example at No.2 Staveley Way is located on the opposite side of Creston Avenue (to the north-east) to the application site and it is clear that the existing alignment of the side elevations of the houses, and of the fencing, at No.2 Staveley Way (and at No.26 Mint Walk) is that which is shown on the original approved plans for this area of housing development. The example at No.2 Staveley Way (and at No.26 Mint Walk) is therefore not comparable because the original layout of this part of the estate did not incorporate areas of amenity land between the side of those houses and the back edge of the footway, as was the case to the side of No.1 Randolph Close. Moreover, on the opposite (eastern) side of Creston Avenue no houses front Creston Avenue directly, as is the case with Nos.1, 3 & 5 Creston Avenue (to the south-west). As set out previously the former amenity land to the side of No.1 Randolph Close was clearly originally designed to work collectively with the amenity land to the side of No.15 Randolph Close and with the open plan design of the frontages to Nos.1, 3 & 5 Creston Avenue. This is not comparable to the situation on the opposite side of Creston Avenue, including at No.2 Staveley Way and at No.26 Mint Walk.
18. The further example within the applicants supporting document is at No.1 Chipstead Court, which is around 145 metres north of the application site (as the crow flies). Due to this separation distance, and the curve of Creston Avenue around to the north-west, No.1 Chipstead Court is not considered to form part of the contextual street scene with the application site. Planning permission was refused in February 1976 (ref: 76/0033) for "*The re-siting of a 6ft high boundary fence, 6ft 7ins forward to enclose a strip of land 42ft in length alongside part of the flank wall and rear garden of No.1 Chipstead Court*" because that development "*would, if approved, set a precedent for other fences on the Goldsworth Park Estate to be moved into a similar position. The overall effect of the loss of grass verges between footpaths and fences would be*

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detrimental to the visual amenities of the development.” However, planning permission was subsequently granted on appeal in January 1977.

19. In granting planning permission at No.1 Chipstead Court the Inspector stated (at para 6) that *“The curving nature of the Avenue to the south of your home has resulted in some garden fences obtruding to within 2-3ins of the footpath”* and (at para 7) that *“To the north, your rear garden abuts on to land used for car parking by the tenants of a council housing estate. In this area I have noted that the enclosing fences encroached to within 10ins of the footpath. The side of your house overlooks open allotment gardens on the west side of Creston Avenue”*. At paragraph 8 the Inspector states that *“The impression I gained when approaching your house from both north and south is that, unlike the prominent features of other projecting fences to which I have referred, your site enjoys the advantage of being somewhat set back, especially as it borders the outer curves of this winding avenue”* and that (at para 9) *“Since lodging your appeal for permission to enclose a strip of land 6ft 7ins in width, you have offered to reduce this slightly to allow for the planting of creeping plants. I have therefore made a condition to this effect.”* At paragraph 10 the Inspector concludes that *“In these circumstances, I take the view that a re-siting of this fence would not represent a departure from the general pattern of boundary fences on this estate, nor would it offend the visual amenities or outlook from neighbouring homes”* (emphases added).
20. It is clear from the appeal decision (particularly from those elements to which emphasis has been added above) that the decision of the Inspector turned on the particular circumstances of No.1 Chipstead Court, which is around 145 metres away from the application site (as the crow flies). Furthermore, the 46+ year age of that appeal decision, together with the site specific nature of the design and character consideration involved, are such that the appeal decision should be afforded only very limited weight in the determination of the present planning application, which stands to be considered on its individual, and site specific, merits and against the provisions of the present Development Plan and other material considerations (i.e., including the NPPF (2021) and SPD Design (2015)).
21. Moreover, and as set out previously, the former amenity land to the side of No.1 Randolph Close was originally designed to work collectively with the amenity land to the side of No.15 Randolph Close and with the open plan design of the frontages to Nos.1, 3 & 5 Creston Avenue, clearly this is not comparable to the situation at No.1 Chipstead Court.
22. The ‘newness’ of the timber of the fence presently appears ‘stark’, this effect is compounded by the rather harsh appearance of the concrete posts. Whilst the new timber would appear less stark as it weathers, that would take time. In respect of any potential planting ‘in front of’ the fence this would not be possible because of the positioning of the fence tight against the back edge of the footway, notwithstanding that any such potential realignment of the fence or planting (which the present planning application does not propose in any case) would not address the harmful loss of amenity land.
23. Overall, the development results in unacceptable harm to the character and appearance of the area, contrary to Policies CS21 and CS24 of the Woking Core Strategy (2012), SPD Design (2015) and to paragraphs 126 and 130 of the National Planning Policy Framework (NPPF) (2021). Those policies state,

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amongst other things, that all development proposals will provide a positive benefit in terms of landscape and townscape character, and local distinctiveness. It must be noted that the harm and policy conflict would not be overcome by reducing the height of the fencing, not least because the alignment and loss of amenity land would remain.

24. The applicant sets out, within a covering letter to the planning application, that the reasons for undertaking the development are down to several factors:

- "1) Anti-Social Behaviour regarding the volume of litter dropped onto the land due to its situation next to a bus stop (servicing the Number 91 bus route).*
- 2) Dog Fouling on the land as there is no deterrent in place to identify the land as private.*
- 3) Trespassing by people waiting for the bus.*
- 4) Privacy into the property and garden from the footpath and bus stop due to the sloping elevation down to the pre-existing garden fence."*

25. Whilst the applicant has submitted some photographs of litter and dog fouling there is no wider context to these photographs to show that they took place on the area of amenity land in question. In any case, on the basis of site visit observations throughout the local area, there was little evidence of littering and dog fouling being a notable issue, including on land close to the bus stop on the opposite side of Creston Avenue. Whilst an included photograph does show two persons standing on the amenity land in question there is little to suggest that trespass onto the amenity land was a frequent issue or caused any particular problems. In respect of achieving improved levels of privacy to the rear elevation and rear garden of the house at No.1 Randolph Close it is material that the garden fence appeared to remain in its former location, and at its former height, since original construction of the house in the 1980s. In any case, less harmful alternatives to improving privacy, such as adding a trellis atop the fence (in its former position) (this would require planning permission if the overall height would exceed 2 metres above ground level), could be undertaken to improve privacy. It must also be noted that issues around potential littering, dog fouling and trespass are not specific to the particular area of amenity land in this instance, and that, in the event this application was permitted on that basis, such concerns could be used to seek to justify the enclosure of such areas of amenity land anywhere within the Borough, and particularly within the Goldsworth Park estate.

26. It is noted that the installed fencing extends alongside only a small part of the flank (east) elevation of the house and that a new flowerbed has been installed by the applicant to the side of the house within this 'unenclosed' area to the side, together with an area which remains laid to lawn. However, these factors are not considered to outweigh the harm to the character and appearance of the area which is caused by the enclosure of the amenity land and the relocated timber fencing.

27. Whilst each planning application is considered on its individual merits, in the event this planning application was to be permitted, there is nonetheless a more than reasonable prospect of similar development being able to be repeated elsewhere within the wider Borough, and particularly within the Goldsworth Park estate. Permitting this planning application would make it more difficult for the Local Planning Authority to resist further applications for

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such development, thereby compounding the harm to character and appearance which has been identified.

28. It is acknowledged that Policy CS21 of the Woking Core Strategy (2021) also seeks to ensure, inter alia, that “*schemes provide appropriate levels of private...amenity space*”, and that incorporating the former amenity land into the private garden area increases the outdoor private amenity space at the house. However, any gain from the amenity land in this respect is clearly outweighed by the described harm to the character and appearance of the area. Furthermore, the house at the application site provides around 70 sq.m gross floorspace, has a building footprint of around 44 sq.m., and has a (lawful) private rear garden area of around 50 sq.m (of around 12 metres depth and around 4.5 metres width), this being both in accordance with the recommendations within SPD Outlook, Amenity, Privacy and Daylight (2022) and consistent with the grain and pattern of development in the local area. As such, it is not considered that the house is deficient in respect of outdoor private amenity space.
29. Overall, the loss of amenity land, and the associated relocation of the timber fencing, undermines the openness, spaciousness and attractive informal landscape setting to this entrance into the Goldsworth Park estate and has an unduly imposing presence in the Creston Avenue street scene which appears harsh and unsympathetic to its context. Furthermore the proposal results in the loss of a parcel of informal open space, which performed a public value function as visual amenity, and fails to provide alternative and equivalent or better provision in the locality or to be directed related to the enhancement of open space. The development fails to respect and make a positive contribution to the character of the area within which it is located, fails to incorporate appropriate and effective landscaping and to provide for suitable boundary treatments, and also fails to provide a positive benefit in terms of landscape and townscape character. The development is therefore contrary to Policies CS17, CS21 and CS24 of the Woking Core Strategy (2012), Policy DM2 of the Development Management Policies DPD (2016), Supplementary Planning Document (SPD) Design (2015) and the provisions of the National Planning Policy Framework (NPPF) (2021) (most notably paragraphs 126 and 130).

Neighbouring amenity

30. Policy CS21 of the Woking Core Strategy (2012) states, inter alia, that “*Proposals for new development should...Achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or an overbearing effect due to bulk, proximity or outlook*”. SPDs Outlook, Amenity, Privacy and Daylight (2022) and Design (2015) provide more detailed guidance in respect of considering/assessing neighbouring amenity impacts.
31. The potential loss of enjoyment of a view is not a ground on which planning permission can potentially be refused although the impact of a development on outlook is a material planning consideration and stems on whether the development would give rise to an undue sense of enclosure or overbearing effect to neighbouring/nearby residential properties. There are no established guidelines for what is acceptable or unacceptable in this regard, with any assessment subjective as opposed to empirical, with key factors in this

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assessment being the existing local context and arrangement of buildings and uses.

32. In respect of daylight, and where existing habitable room windows/openings are orientated at 90° in relation to a proposed development, SPD Outlook, Amenity, Privacy and Daylight (2022) states (at para 5.10) that *“they may affect the daylighting of an adjoining dwelling if they project beyond 3 metres of the building elevation, particularly if positioned close to a common boundary. Significant loss of daylight will occur if the centre of the affected window (or a point 1.6m in height above the ground for floor to ceiling windows/patio doors) lies within a zone measured at 45° in both plan and elevation”*.

No.5 Creston Avenue:

33. No.5 Creston Avenue is the only immediately adjoining property to the new fencing/enclosed amenity land and is a single storey end-of-terrace house to the rear (south-west), the front elevation of which faces Creston Avenue. The closest front window within No.5 serves a kitchen, which is also served by a side-facing (north-east) window. The new fencing projects forwards of the front elevation of No.5, whereas the former fencing generally aligned with the front elevation of No.5. Whilst the new fencing projects forwards of the front of No.5 it does not do so by a significant distance (by around 3.2 metres) and is located around 1.5 metres away from the house of No.5. The new extent of fencing is not located directly opposite the side-facing kitchen window of No.5, passes the 45° angle test for daylighting in respect of the closest front facing window of No.5, and is located to the north-east of No.5 such that it does not cause any significant overshadowing/loss of sunlight to No.5. These combined factors, together with the stepped height of the fencing which projects forwards of the front elevation of No.5, are such that the fencing achieves a satisfactory relationship to adjoining No.5 Creston Avenue, avoiding significant harmful overbearing effect, and also avoiding significant harmful loss of daylight and sunlight.
34. Considering its height and positioning in relation to adjoining and nearby properties, other than No.5 Creston Avenue (discussed above), the new fencing and the enclosure of the amenity land does not give rise to material neighbouring amenity impacts to any other properties. However, the preceding represents only an absence of harm in this respect (i.e., is neutral) and does not outweigh the other harms identified or weigh positively in favour of the proposal.

Other matters

35. The application site does not fall within an area at risk of flooding, either from rivers (i.e., fluvial) or from surface water. The height and positioning of the relocated fencing is such that it does not give rise to any highway safety issue. Again, the preceding represents only an absence of harm in these respects (i.e., are neutral) and do not outweigh the other harms identified or weigh positively in favour of the proposal.

Requirements of the enforcement notice

36. In this case, the breach of planning control is the material change of use from amenity land to residential garden and the erection of close boarded timber

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fencing. The requirements of the enforcement notice therefore need to be, in short, to cease the use of the amenity land as residential garden, remove the fencing, re-instate the former boundary treatment in its former location, restore the amenity land to its previous condition and remove all associated materials.

37. It must also be noted that potentially reducing the fencing to 1 metre in height above ground level (although this is not proposed by the applicant) would not remedy the breach of planning control. That is because 'permitted development' (PD) rights do not grant retrospective planning permission and because, moreover, the material change of use of amenity land to residential garden would remain.

Local finance considerations

38. No gross floorspace would result. As such, the proposal is not Community Infrastructure Levy (CIL) liable.

Conclusion

39. For the reasons set out within this report, the proposed development would conflict with the policies of the Development Plan, and other material considerations, including the NPPF (2021). There are no material considerations that indicate the application should be determined other than in accordance with the Development Plan and other material considerations. Therefore, for the reasons given, it is recommended that planning permission should be refused.
40. It is also considered expedient to serve an Enforcement Notice having regard to the provisions of the Development Plan and to other material considerations. As such, authority is sought to serve an Enforcement Notice. It is considered expedient to take enforcement action for the following reasons:
 1. It appears to the Council that the change of use from amenity land to residential garden, and the associated erection of new 1.8m tall boundary fencing, has occurred within the last ten years and therefore is not immune from enforcement action due to the passage of time.
 2. The loss of amenity land, and the associated relocation of the timber fencing, undermines the openness, spaciousness and attractive informal landscape setting to this entrance into the Goldsworth Park estate and has an unduly imposing presence in the Creston Avenue street scene which appears harsh and unsympathetic to its context. Furthermore the proposal results in the loss of a parcel of informal open space, which performed a public value function as visual amenity, and fails to provide alternative and equivalent or better provision in the locality or to be directed related to the enhancement of open space. The development fails to respect and make a positive contribution to the character of the area within which it is located, fails to incorporate appropriate and effective landscaping and to provide for suitable boundary treatments, and also fails to provide a positive benefit in terms of landscape and townscape character. The development is therefore contrary to Policies CS17, CS21 and CS24 of the Woking Core Strategy (2012), Policy DM2 of the Development Management Policies DPD (2016), Supplementary Planning Document (SPD) Design (2015) and the

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provisions of the National Planning Policy Framework (NPPF) (2021) (most notably paragraphs 126 and 130).

3. The Council does not consider that planning permission should be given because planning objections cannot be overcome by way of condition(s).
 4. Paragraph 59 of the National Planning Policy Framework (NPPF) (2021) states that "*Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control*".
41. The preceding reasons therefore make it expedient to undertake enforcement action and issue the necessary Enforcement Notice. The financial implications including staff resources, the costs of any subsequent appeal, court hearing, legal representation and/or any other costs (including, where appropriate, taking direct action) are all matters that have been considered in the preparation of this report. An appeal against an Enforcement Notice could be subject to an application for full or partial award of the Appellant's costs in making an appeal if it were considered that the Council acted unreasonably. If the Planning Committee decide to take enforcement action and the owner decides to exercise their right of appeal, it is considered unlikely that this case would be determined by Public Inquiry and therefore appeal costs to the Council are likely to be comparatively minimal.

BACKGROUND PAPERS

Site visit photographs
x2 letters of representation

RECOMMENDATION

Refuse planning permission for the following reason(s):

01. The loss of amenity land, and the associated relocation of the timber fencing, undermines the openness, spaciousness and attractive informal landscape setting to this entrance into the Goldsworth Park estate and has an unduly imposing presence in the Creston Avenue street scene which appears harsh and unsympathetic to its context. Furthermore the proposal results in the loss of a parcel of informal open space, which performed a public value function as visual amenity, and fails to provide alternative and equivalent or better provision in the locality or to be directed related to the enhancement of open space. The development fails to respect and make a positive contribution to the character of the area within which it is located, fails to incorporate appropriate and effective landscaping and to provide for suitable boundary treatments, and also fails to provide a positive benefit in terms of landscape and townscape character. The development is therefore contrary to Policies CS17, CS21 and CS24 of the Woking Core Strategy (2012), Policy DM2 of the Development Management Policies DPD (2016), Supplementary Planning Document (SPD) Design (2015) and the provisions of the National Planning Policy Framework (NPPF) (2021) (most notably paragraphs 126 and 130).

It is further recommended that: -

27 JUNE 2023 PLANNING COMMITTEE

The Interim Director of Legal and Democratic Services be instructed to issue an Enforcement Notice under Section 172 of The Town and Country Planning Act 1990 (as amended) and Officers be authorised in the event of non-compliance with the Notice to prosecute under Section 179 of the Act, or appropriate power, and/or take direct action under Section 178 in the event of non-compliance with the Notice.

Enforcement action be authorised to issue an Enforcement Notice in respect of the above Land requiring the following within three (3) months of the Notice taking effect:

- (i) Permanently remove the close boarded timber fence and concrete posts from the land;
- (ii) Permanently cease the use of the amenity land as residential garden;
- (iii) Re-instate the boundary of the residential garden with a wall or fence no greater than 2 metres in height in its previous alignment before the breach took place;
- (iv) Restore the amenity land to its previous condition before the breach took place (the previous condition of the land being as shown on p.1 of the Photographs document submitted by the applicant, untitled and undated);
- (v) Remove from the Land all materials, rubble and debris, including all associated paraphernalia, arising from compliance with the above.

Informatives

01. The plans and particulars relating to the planning application hereby refused are numbered/titled (all rec'd by the LPA on 01.05.2023):

2023/T08/01 Rev 00 (Existing Plans & Elevations), dated 23.04.2023

2023/T08/02 Rev 00 (Proposed Plans & Elevations), dated 23.04.2023

2023/T08/03 Rev 00 (Location & Block Plans), dated 23.04.2023

Covering letter submitted by the applicant, titled '1 Randolph Close', undated (2pp)

Photographs submitted by the applicant, untitled and undated (4pp)

02. This statement is provided in accordance with Article 35(2) of The Town and Country Planning (Development Management Procedure) (England) Order 2015. Woking Borough Council seeks to take a positive and proactive approach to development proposals. The Council works with applicants in a positive and proactive manner by:

- Offering a planning pre-application advice service; and
- Where possible officers will seek minor amendments and/or additional information to overcome issues identified during the application process.

In this instance the applicant seeks to regularise a breach of planning control and did not seek planning pre-application advice from the Council prior to carrying out the unauthorised development. It was not considered that minor amendments and/or additional information would overcome concerns/issues identified during the application process.

