

12 APRIL 2023 PLANNING COMMITTEE

6g PLAN/2022/0888

WARD: MH

LOCATION: Hilltop, The Ridge, Woking, Surrey, GU22 7EQ

PROPOSAL: Erection of front garden wall and erection of 2 no. electric gates - amended scheme.

APPLICANT: Mr Khan

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

Erection of front garden wall and erection of 2 no. electric gates - amended scheme.

(Officer Note: The present application follows previously refused application ref: PLAN/2021/1183, hence the use of the words "amended scheme" by the applicant within the description of development. The present application (as was ref: PLAN/2021/1183) is also part retrospective because the front wall has been partially constructed.)

PLANNING STATUS

- Urban Area
- Tree Preservation Order (Ref: TPO/0005/2021)

RECOMMENDATION

Refuse planning permission and authorise enforcement action.

SITE DESCRIPTION

Hilltop is a two storey detached dwelling externally finished in white render with dark coloured window frames below a contemporary slate-effect tiled roof covering. The frontage has been laid largely to block paving type hardstanding with contemporary horizontal slatted fencing along the side boundaries of the frontage. A wall and pillars have been partially constructed at the front, demonstrating exposed blockwork as of the site visit. There are protected Oak and Pine trees within the frontage.

RELEVANT PLANNING HISTORY

The site has a rather extensive planning history, the most recent and relevant of which is:

PLAN/2021/1183 - Retrospective application for erection of front garden wall and erection of 2 no. electric gates.

Refused (04.02.2022) for the following reasons:

01. *By reason of the combination of the design, height and length of the wall and gates, and the white rendered finish of the wall, the proposal would represent a*

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prominent, incongruous and unattractive feature which would appear intrusive and fail to respect and make a positive contribution to the street scene and the character of the area in which it would be situated contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Document (SPD) Design (2015) and Section 12 of the National Planning Policy Framework 2021 (NPPF) (particularly paragraphs 126, 130 and 134).

02. *In the absence of arboricultural information the applicant has not demonstrated that the wall/gates result in acceptable arboricultural impacts and that the protected Oak and Pine trees within the site, which are of high public amenity value, are capable of being retained, nor whether/how retained trees were/would be protected during construction works and whether adequate space is provided between retained trees and the wall/gates. The proposal is therefore contrary to Policy CS21 of the Woking Core Strategy (2012), Policy DM2 of the Development Management Policies DPD (2016) and the provisions of the National Planning Policy Framework 2021 (NPPF) (paragraph 131).*

PLAN/2019/0154 - Variation of condition 02 (approved plans) of PLAN/2015/1150 dated 29.01.2016 (Erection of a two-storey side extension, a single-storey rear extension following the demolition of a conservatory and an attached garage, conversion of loft space, alterations to the roof, alteration to fenestration and a porch canopy) to remove tile hanging to walls and render entire building with white render, replace roof tiles with grey plain tiles, additional obscure-glazed windows to side elevations, enlarge rear patio doors and change rear upper windows with Juliet balconies and change to style and colour of windows throughout.
Refused (24.07.2019) & Appeal Allowed (11.12.2019)

PLAN/2015/1150 - Erection of a two-storey side extension, a single-storey rear extension following the demolition of a conservatory and an attached garage, conversion of loft space, alterations to the roof, alteration to fenestration and a porch canopy.
Permitted subject to conditions (29.01.2016)

CONSULTATIONS

Senior Arboricultural Officer (WBC): The applicant will need to provide full arboricultural information to support this application.

REPRESENTATIONS

x4 letters of objection (from x2 originators) received raising the following points:

- The applicant has demolished the attractive old brick front boundary wall as depicted by the plan and elevation of the existing wall.
(Officer Note: The demolition of the former front boundary wall did not in itself constitute a breach of planning control because Schedule 2, Part 11, Class C of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) grants planning permission (i.e., as 'permitted development') for the demolition of the whole or any part of, inter alia, any wall or other means of enclosure (unless it is located within a Conservation Area, which this site is not))
- The wall has been built beyond Hilltop's boundary and onto The Ridge, particularly at the 'Westbourne' end - the Ownership Certificates section of the application form is therefore incorrect and invalidates the application. The

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Council are unable to grant permission for an applicant to build on land not belonging to the applicant or on land for which the applicant has not obtained the owners prior permission.

(Officer Note: Please refer to the Officer Note at the end of this report section)

- The land owner of The Ridge and it's verges is Brookwood Cemetery Limited - until such time as the appropriate notice has been served on Brookwood Cemetery Limited this application should be invalidated.

(Officer Note: Please refer to the Officer Note at the end of this report section)

- Woking Borough Council now own Brookwood Cemetery Limited - Given that Brookwood Cemetery Limited have granted deeds over the verges of The Ridge Woking Borough Council must, as owners of Brookwood Cemetery Limited, have the legal right to issue an enforcement notice requiring the owners of Hilltop to remove the boundary wall that has been built on Brookwood Cemetery Limited's land.

(Officer Note: Please refer to the Officer Note at the end of this report section)

- Woking Borough Council, as owners of Brookwood Cemetery Limited, also have a duty to act re: encroachment as nobody else has such authority.

(Officer Note: Please refer to the Officer Note at the end of this report section)

- The electric sliding gates will open into a narrow space between the proposed wall and the timber sleeper retaining wall - a space liable to collect rubbish and leaves, obstructions will prevent the proper operation of the gates which will be liable to jam preventing the ingress and egress of cars and people, leaving cars blocking the narrow carriage way of The Ridge.
- Sliding gates are an inappropriate solution on this site and should not be permitted.
- The verge in front of Hilltop is shown on the elevation drawing as being raised with timber barks around the perimeter but this is not shown on the plan. Which is correct? Should the Council decide to approve the application, please can they include a condition requiring the verge to be at road level in order that the applicant's cars can be parked on the verge should the sliding gates fail to open.
- The ground profile falls from the Westbourne to The Beeches end - the top of the gates will not therefore be level as shown on the elevation drawing but will fall to the left – the jamb of the gate will not be vertical which will make the gates look as if they are falling off their hinges.
- The application does not describe the material or construction of the gates. If of solid construction, they will appear as a fence 1.40 metres high as there will only be a small space between them - in breach of WBC's boundary treatment policy.
- If the Council decide to approve this application, please could they include a condition that the gates should be of an open structure above the 1.0m line.
- SPG Residential Boundary Treatments also recommends that brick walls would be suitable with a coping over – the application shows a rendered wall without a coping over which would result in rainwater and dirt running down the face of the rendered wall making it streaky and unsightly
(Officer Note: SPG Residential Boundary Treatment is not considered to form an extant material consideration because it was supplementary to Policy BE1 of the Woking Local Plan 1999, which is itself not extant, having been replaced by the Woking Core Strategy (2012) and the Development Management Policies DPD (2016))
- If a rendered boundary wall and piers are permitted, please can the Council ensure that the wall and piers are capped with a projecting coping to prevent unsightly staining of the render below.

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- The building work was executed behind fully sheeted Heras fencing, presumably to avoid the public seeing precisely how the works were being carried out.
- The timber sleeper retaining wall may be visible from the road over the boundary wall and would suggest that it is treated with creosote for preservation and appearance.
- Would suggest that the applicant amends the application to provide for pairs of gates opening inwards with the boundary wall repositioned on their own land, capped with a projecting coping and not exceeding 1m high.
- Is totally out of character and ambiance with the area.
- The current wall structure and pillars are positioned far ahead of the line of sight as you travel up and down the road as to seem like a construction mistake and or design error.

(Officer Note: In respect of land ownership the issue relevant to the planning application is only whether the applicant has signed the correct Ownership Certificate. Following receipt of x1 letter of representation the Title of Hilltop has been obtained by Officers and shows the ownership of the Hilltop land to seemingly about the carriageway of The Ridge. As such, there is no cogent evidence that the applicant has either: (i) completed the incorrect Ownership Certificate or (ii) built on land not within their ownership. Irrespective of this, any grant of planning permission would not bring with it the right to undertake development on land outside the ownership of the applicant without the prior agreement of the relevant landowner, which is a wholly civil matter outside of the planning process. Whether or not any other landowner deems it appropriate to consent to works on their land, or to take any civil action in that respect, is a matter for that landowner. It must also be noted that there is a clear, and necessary, distinction between the role of the Council (and any of its companies) as a landowner and as a Local Planning Authority.)

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF) (2021)

Section 2 - Achieving sustainable development

Section 4 - Decision-making

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural environment

Woking Core Strategy (2012)

CS9 - Flooding and water management

CS18 - Transport and accessibility

CS21 - Design

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)

Parking Standards (2018)

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Other Material Considerations

Surrey County Council Standing Advice for Minor Development

Planning Practice Guidance (PPG) (online resource)

Woking Borough Council Strategic Flood Risk Assessment (SFRA) (November 2015) (SFRA)

Community Infrastructure Levy (CIL) Charging Schedule (2015)

BACKGROUND

The present application has been submitted following the refusal (under Officer delegated powers) of application ref: PLAN/2021/1183 on 4 February 2022. The present application differs to refused ref: PLAN/2021/1183 as follows:

- The 'render block wall' has been reduced so as to have a predominant maximum height of between c.0.8m and 1.0m AGL (above ground level), with the exception of x2 central pillars which would have a maximum height of c.1.7m AGL. This compares to a maximum height of between c.1.6m and 1.7m AGL under previous ref: PLAN/2021/1183. The gates and gate pillars are shown to be of the same heights and widths as per previous ref: PLAN/2021/1183; and
- The heights of the timber boundary fences to both sides of the frontage have been annotated on the submitted plans. The submitted plan numbered/titled S1358 PL 101 C (Plan - Proposed Front Drive & Access) annotates "2.2m height fence" (set back from the front boundary) and "2m height fence" (where adjoining the front boundary). However, the applicant has not included these fences within the description of development ("Erection of front garden wall and erection of 2 no. electric gates - amended scheme"). Because of height and positioning these elements of fencing do not constitute 'permitted development' (PD) under Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO 2015). As such, the applicant has been asked to confirm whether the present application seeks planning permission for this side boundary fencing. No response has been received from the applicant and therefore only the 'Erection of front garden wall and erection of 2 no. electric gates' can be considered.

(Officer Note: The applicant has also been asked to confirm whether the present application seeks planning permission for the driveway surfacing although it is noted that the information on the submitted plan numbered/titled S1358 PL 101 C (Plan - Proposed Front Drive & Access) appears to indicate that the driveway surfacing is 'permitted development' (PD) under Schedule 2, Part 1, Class F of the GPDO 2015. Again, no response has been received from the applicant and therefore only the 'Erection of front garden wall and erection of 2 no. electric gates' can be considered).

PLANNING ISSUES

01. The main planning issues to consider in determining this application are:
 - Principle of development;
 - Design and character;
 - Arboriculture;
 - Neighbouring amenity;

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- Highway safety and parking;
- Flooding and water management; and
- Local finance considerations

having regard to the relevant policies of the Development Plan, other relevant material planning considerations and national planning policy and guidance.

Principle of development

02. The site falls within the Urban Area, as defined by the Council's Proposals Map, in which the principle of the erection/construction of means of enclosure is acceptable subject to the detailed planning considerations set out.

Design and character

03. Policy CS21 of the Woking Core Strategy (2012) states, inter alia, 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"* (emphasis added).
04. 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"*, that planning decisions should ensure that developments, inter alia, *"are visually attractive as a result of good architecture, layout...are sympathetic to local character and history...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), and that *"development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes"* (paragraph 134).
05. The 'Residential extensions' section (9D) of SPD Design (2015) states that *"boundary treatment should be well considered and in keeping with the existing building and streetscape"*. The 'Lowest density/Arcadian' section (9C) of SPD Design (2015) states that *"boundary treatments are of upmost importance in defining the relationship between private space and serving street"*, that *"natural edges and boundary treatments have a very important role to play"* and that *"artificial boundaries, such as high brick walls and fences, will need to take account of the pedestrian environment and be softened with additional planting to maintain prevailing green character"*.
06. The Ridge forms an attractive street scene, with a variety of dwelling designs and ages although large, detached dwellings within large plots prevail, with high levels of tree cover and vegetation along the fronts of properties which provide partial screening of them from the road. On both sides of the road frontages are characterised by properties with low walls and/or fences and/or hedges, providing either a green enclosure, or an open aspect across gardens. Where there are roadside fences and walls these are low in height and hedges,

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shrubs or trees are generally planted in front or behind, contributing to the sylvan quality of The Ridge, this being an attractive and positive feature.

07. The proposal would enclose the entirety of the front, road-facing boundary of the site with a white rendered block wall and electric sliding gates to a height varying between 0.8m and 1.7m above ground level, this ground level differing/falling across the width of the frontage. The 'render block wall' would have a predominant maximum height of between c.0.8m and 1.0m AGL (above ground level), with the exception of x2 central pillars which would have a maximum height of c.1.7m AGL. This compares to a maximum height (of the 'render block wall') of between c.1.6m and 1.7m AGL under previously refused ref: PLAN/2021/1183. This notably lower predominant height to the wall is such that the height of the wall itself is considered to be acceptable. Whilst the x2 central pillars would reach a similar maximum height AGL to the previous refusal these x2 pillars would make up a small extent of the overall width of the wall such that the wall would, overall, spatially and visually integrate into the lower-key enclosures referred to previously. It is highly material, given that the predominant maximum height of between c.0.8m and 1.0m AGL would fall within this parameter, that a wall of up to 1.0m in height above ground level in this location would be 'permitted development' (PD) under Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter referred to as the GPDO 2015).
08. Whilst the combination of width and white rendered finish would still make the wall a rather prominent feature in the street scene the notable reduction in predominant maximum height (compared to refused ref: PLAN/2021/1183) is such that the visual impact of the wall itself would not be harmful. The white rendered finish would reflect that of the host dwelling.
09. However, as was the case with previously refused ref: PLAN/2021/1183, the submitted details do not show that the wall and pillars would terminate with a suitable weatherproof coping. As such, they would be likely to weather poorly, particularly considering their proposed white rendered finish, which would be particularly liable to staining etc. The applicant has been asked by Officers to submit amended plans to add a coping atop the wall and pillars (although has also been advised that such coping should be minimal in height) however no amended plans have been submitted by the applicant.
10. Again, as was the case with previously refused ref: PLAN/2021/1183, on the basis of the submitted information it is not clear whether the design of the proposed 'electric sliding gates' would provide for any visual permeability (i.e., whether the gates would permit any views through), no additional details of the sliding gates have been submitted with the present application in comparison to refused ref: PLAN/2021/1183 and the gates and gate pillars are shown to be of the same heights and widths as per the previous refusal. Officers are not convinced that the heights of the sliding gates (between c.1.4m and 1.7m due to changes in ground level) would be visually appropriate in street scene terms if they were to be of a non-visually permeable design. As such, the applicant has been asked to submit more detailed plans of the proposed sliding gates, and Officers have suggested a (partly visually permeable) design which would potentially be considered acceptable, however no amended plans have been submitted by the applicant.

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11. Whilst it is acknowledged that there was a wall fronting The Ridge previously, as the submitted details demonstrate, that boundary treatment did not span across the whole of the frontage (i.e., there were no vehicle gates) and, in any case, has since been removed. In respect of possible fallback positions 'permitted development' rights under Schedule 2, Part 2, Class A of the GPDO 2015 permit a gate, fence, wall or other means of enclosure up to 1.0m high to be constructed adjacent to a highway and in other locations up to 2.0m high, although the maximum 'permitted development' height is up to 1.0m high along the front boundary of the site. These 'permitted development' rights are recognised to be a valid fallback, and it is considered likely that the applicant would utilise these rights if this application were to be refused (and any potential subsequent appeal dismissed). However, there would be a considerable difference between the visual impact of 1.0m high wall/gates across the frontage and the wall/gates which are proposed. Thus, whilst the existence of this 'permitted development' fallback is acknowledged, it does not serve to justify the height of the wall/gates as proposed, which in parts would reach 1.7m above ground level, in the absence of sufficient detail in respect of the design of the 'electric sliding gates'.
12. It is acknowledged that a front boundary wall and gates were permitted at nearby White Gables however the main width of that wall measured 1.2m above ground level and the vehicular gates were of a visually permeable design above that height. Whilst the height of the wall (in itself) is not an issue in this case Officer concerns in respect of the design of the 'electric sliding gates' have not been addressed by the applicant.
13. Overall, the applicant has failed to demonstrate that the design of the proposed 'sliding gates' would provide for any visual permeability, and therefore that the heights of the 'sliding gates' would be visually appropriate in this context. In addition, in the absence of a suitable weatherproof coping, the proposed walls and pillars are likely to weather poorly, particularly considering their proposed white rendered finish. For these reasons the applicant has failed to demonstrate that the proposal would not constitute a visually intrusive, incongruous and unattractive boundary treatment overall, and therefore has failed to demonstrate that the proposed development would respect and make a positive contribution to the street scene and the character of the area in which it would be situated contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Document (SPD) Design (2015) and Section 12 of the National Planning Policy Framework 2021 (NPPF) (most notably paragraphs 126, 130 and 134).

Arboriculture

14. Policy CS21 of the Woking Core Strategy (2012) states, inter alia, that *"Proposals for new development should... 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"*. Policy DM2 of the Development Management 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...require landscape proposals for new development to retain existing trees and other important landscape features where practicable...require any trees*

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which are to be retained to be adequately protected to avoid damage during construction...require adequate space to be provided between any trees to be retained and the proposed development (including impervious surfaces)".

15. The application information text to Policy DM2 states (at para 3.21) that *"Where trees are present within the application site, or within close proximity to the site that could influence or be affected by the development (including street trees), information will be required about which trees should be retained and how they will be protected during construction works. Full guidance is provided in British Standard 5837 'Trees in relation to design, demolition and construction – Recommendations' (or any future equivalent) on the tree survey, arboriculture implications assessment, and arboriculture methods statement (which would include a tree protection plan) that should be provided with an application"*. Paragraph 131 of the NPPF (2021) states that *"Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning...decisions should ensure...that existing trees are retained wherever possible"*.
16. There is a Tree Preservation Order in force on the site (Ref: TPO/0005/2021) in respect of Oak and Pine trees situated a short distance behind the wall within the frontage of the property. These trees make a significant and positive contribution to the sylvan character and appearance of The Ridge and wider area. The Council's Senior Arboricultural Officer comments that the applicant will need to provide full arboricultural information to support this application. It is noted that the arboricultural information submitted with previous planning application ref: PLAN/2015/1150 on the site identifies the Root Protection Areas (RPAs) of the protected trees (x1 of the x3 trees shown within that report has since been removed, although the Oak and Pine remain), thus demonstrating that the wall/gates are within the RPAs of the two remaining protected trees. The second reason for refusal of previous application ref: PLAN/2021/1183 related to the impact on protected trees and, despite that fact, the applicant has submitted no arboricultural information in support of the present application. The applicant has again (as they were with subsequently refused ref: PLAN/2021/1183) been made aware of the arboricultural concern (in addition to the design/character concern) and has been provided with sufficient time to seek to address these concerns but has failed to submit any arboricultural information.
17. Overall, in the absence of arboricultural information the applicant has failed to demonstrate that the wall/gates result in acceptable arboricultural impacts and that the protected Oak and Pine trees within the site, which are of high public amenity value, are capable of being retained, nor whether/how retained trees were/would be protected during construction works and whether adequate space is provided between retained trees and the wall/gates. The proposal is therefore contrary to Policy CS21 of the Woking Core Strategy (2012), Policy DM2 of the Development Management Policies DPD (2016) and the provisions of the National Planning Policy Framework 2021 (NPPF) (paragraph 131).

Neighbouring amenity

18. 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*

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outlook". SPDs Outlook, Amenity, Privacy and Daylight (2022) and Design (2015) provide more detailed guidance.

19. Considering their height, nature, and design, together with the positioning of the front boundary wall/gates in relation to adjoining and nearby properties, no significant harmful loss of privacy, daylight or sunlight, and no significant harmful overbearing effect, would arise to adjoining and nearby properties. 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.
20. Whilst the side boundary fencing may have neighbouring amenity impacts as set out within the 'Background' section of this report the applicant has not included the side boundary fencing within the description of development and has not confirmed that the present application also seeks (retrospective) planning permission for the side boundary fencing such that only the 'Erection of front garden wall and erection of 2 no. electric gates' can be considered under the present application.

Highway safety and parking

21. The Ridge is a private, unclassified road. The front boundary wall/gates comply with Surrey County Council's Standing Advice for Minor Development and would not result in any loss of on-site parking provision. 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.
22. As set out within the 'Background' section of this report the applicant has not included the side boundary fencing within the description of development and has not confirmed that the present application also seeks (retrospective) planning permission for the side boundary fencing such that only the 'Erection of front garden wall and erection of 2 no. electric gates' can be considered under the present application.

Flooding and water management

23. Policy CS9 of the Woking Core Strategy (2012) states, inter alia, that "*The Council will determine planning applications in accordance with the guidance contained within the NPPF...The Council expects development to be in Flood Zone 1 as defined in the SFRA*". Paragraphs 159-169 (incl.) of the NPPF (2021) relate to planning and flood risk.
24. The site falls wholly within the lowest probability (Flood Zone 1) of fluvial (i.e., river and sea) flooding, as identified on the Gov.uk Flood map for planning, and therefore no fluvial flood issues arise. The Council's Strategic Flood Risk Assessment (November 2015) (SFRA) does not identify any surface water flood risk within, or adjoining, the site. 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.

Local finance considerations

25. No gross floorspace would result. The proposal would not be Community

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Infrastructure Levy (CIL) liable.

Conclusion

26. For the reasons set out within this report, the proposed development would conflict with the policies of the Development Plan and the NPPF (2021). There are no material considerations that indicate the application should be determined other than in accordance with the Development Plan and the NPPF (2021) and therefore, for the reasons given, it is recommended that planning permission should be refused.
27. 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 wall and pillars are not immune from enforcement action due to the passage of time.
 2. The wall and pillars do not constitute permitted development by virtue of Article 3, Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) because they exceed 1 metre in height above ground level and are located adjacent to a highway used by vehicular traffic.
 3. By combined reason of their height above ground level, width across the frontage and external finishes the wall and pillars constitute a visually intrusive, incongruous and unattractive boundary treatment, and therefore fail to respect and make a positive contribution to the street scene and the character of the area in which they are situated contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Document (SPD) Design (2015) and Section 12 of the National Planning Policy Framework 2021 (NPPF) (most notably paragraphs 126, 130 and 134).
 4. The applicant has failed to demonstrate that the wall and pillars result in acceptable arboricultural impacts and that the protected Oak and Pine trees within the site, which are of high public amenity value, are capable of being retained, and has also failed to demonstrate whether adequate space is provided between retained trees and the wall and pillars. The proposal is therefore contrary to Policy CS21 of the Woking Core Strategy (2012), Policy DM2 of the Development Management Policies DPD (2016) and the provisions of the National Planning Policy Framework 2021 (NPPF) (paragraph 131).
 5. 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*".
28. 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,

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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 was 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

Consultation response from Senior Arboricultural Officer (WBC)

x4 letters of representation

PLAN/2021/1183 File

RECOMMENDATION

Refuse planning permission for the following reasons:

01. The applicant has failed to demonstrate that the design of the proposed 'sliding gates' would provide for any visual permeability, and therefore that the heights of the 'sliding gates' would be visually appropriate in this context. In addition, in the absence of a suitable weatherproof coping, the proposed walls and pillars are likely to weather poorly, particularly considering their proposed white render finish. For these reasons the applicant has failed to demonstrate that the proposal would not constitute a visually intrusive, incongruous and unattractive boundary treatment overall, and therefore has failed to demonstrate that the proposed development would respect and make a positive contribution to the street scene and the character of the area in which it would be situated contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Document (SPD) Design (2015) and Section 12 of the National Planning Policy Framework 2021 (NPPF) (most notably paragraphs 126, 130 and 134).
02. In the absence of arboricultural information the applicant has failed to demonstrate that the wall/gates result in acceptable arboricultural impacts and that the protected Oak and Pine trees within the site, which are of high public amenity value, are capable of being retained, nor whether/how retained trees were/would be protected during construction works and whether adequate space is provided between retained trees and the wall/gates. The proposal is therefore contrary to Policy CS21 of the Woking Core Strategy (2012), Policy DM2 of the Development Management Policies DPD (2016) and the provisions of the National Planning Policy Framework 2021 (NPPF) (paragraph 131).

It is further recommended that: -

The 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 six (6) months of the Notice taking effect:

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- (i) To remove from the Land the wall and pillars, which are situated at the front of the site at the approximate location(s) shown dotted on the attached plan, in their entirety; and
- (ii) To remove from the Land all materials, rubble, debris and paraphernalia associated with and arising from compliance with requirement (i) above.

Informatives

01. The plans relating to the planning application hereby refused are numbered/titled (all rec'd by the LPA on 21.09.2022):

S1358-001 A (Location Plan), undated, titled Hilltop, The Ridge

S1358 EX 101 A (Plan - Existing Front Drive & Access and Elevation - Existing Front Wall), undated

S1358 PL 100 A (Block Plan), undated

S1358 PL 101 C (Plan - Proposed Front Drive & Access), undated

S1358 PL 102 D (Elevation - Proposed Front Wall), undated

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 did not seek planning pre-application advice from the Local Planning Authority (LPA) prior to submission of the application, which is part retrospective in nature, and which follows the refusal of (also part retrospective) application ref: PLAN/2021/1183 in February 2022. Furthermore, during the application process the Local Planning Authority (LPA) has communicated with the applicant (via their agent), including raising concerns with the proposal as submitted and providing suggestions/advice as to how the applicant could potentially overcome the identified concerns. The applicant has also been provided with more than sufficient time to seek to address the concerns identified but has failed to submit any amended/additional plans, and any arboricultural information, and indeed has failed to provide any response to the LPA. Therefore, the application was determined on that basis.

03. For the avoidance of any doubt whilst the heights of the boundary fences to both sides of the frontage have been annotated on the submitted plans (the height and positioning of which preclude them from constituting 'permitted development' under Schedule 2, Part 2, Class A of the GPDO 2015) the applicant has not included these fences within the description of development ("Erection of front garden wall and erection of 2 no. electric gates - amended scheme"). When asked whether the present application also seeks planning permission for the side boundary fencing no response was received from the

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applicant and therefore only the 'Erection of front garden wall and erection of 2 no. electric gates' have been considered under the present application.

04. For the avoidance of any doubt the applicant has also been asked to confirm whether the present application also seeks planning permission for the driveway surfacing (although it is noted that the information on the submitted plan numbered/titled S1358 PL 101 C (Plan - Proposed Front Drive & Access) appears to indicate that the driveway is 'permitted development' under Schedule 2, Part 1, Class F of the GPDO 2015). Again, no response has been received from the applicant and therefore only the 'Erection of front garden wall and erection of 2 no. electric gates' have been considered under the present application.