

23 JULY 2019 PLANNING COMMITTEE

6h 18/1228 Reg'd: 01.03.2019 Expires: 26.07.19 Ward: PY
Nei. 05.07.19 BVPI Minor Number 20 On Yes
Con. Target dwellings -13 of Target?
Exp: Weeks
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LOCATION: Ellingham, Pyrford Road, West Byfleet ,KT14 6QY

PROPOSAL: Proposed brick wall and gates (retrospective).
(Additional/amended plans)

TYPE: Householder Planning Application

APPLICANT: Mrs Catherine Dwyer

OFFICER: William
Flaherty

REASON FOR REFERRAL TO COMMITTEE:

The decision on whether to take enforcement action falls outside the scope of delegated powers.

SUMMARY OF PROPOSED DEVELOPMENT

The proposal is for the retention of an existing brick wall and the proposed erection of gates.

PLANNING STATUS

- Urban Area
- Thames Basin Heaths Special Protection Area (TBH SPA) Zone B (400m-5km)
- West Byfleet Neighbourhood Area
- Tree Preservation Order

RECOMMENDATION

REFUSE planning permission and authorise formal enforcement proceedings.

SITE DESCRIPTION

The application site is situated on the east side of Pyrford Road in the Pyrford area of the Borough. The area immediately surrounding the site can be described as being of an Arcadian character with a low density of development characterised by large detached properties in generous plots. The surrounding area has a strong sylvan and green character with mature hedges and trees creating lush and attractive streets.

In the immediate vicinity of the brick wall is a tree protected by a Tree Preservation Order (TPO) and there are protected trees on neighbouring properties also.

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BACKGROUND

A complaint was received by the Planning Enforcement Team on 14.08.2018 that the boundary treatment was not being built in accordance with planning permission ref: PLAN/2016/1242. Following this, a Planning Enforcement Officer visited the site on 20.08.2018 advising the Builder building the wall that the wall does not benefit from planning permission, is not permitted development and that a planning application is needed to seek to regularise the breach of planning control. The Planning Enforcement Officer advised the builder to cease construction works and to advise the applicant that a planning application is required.

The applicant contacted the Planning Enforcement Officer by email dated 07.11.2018 requesting advice on how to proceed with a planning application. Following guidance from the Planning Enforcement Officer on where to submit a planning application, the current planning application was received on 14.11.2018. However, due to a number of issues with the submitted plans, the planning application was not made valid until 01.03.2019.

During the course of the assessment of the current planning application the applicant has been made aware of responses from the County Highway Authority and the Officer's recommendation based on the submitted information. In spite of this, the applicant wishes to proceed with the application as submitted.

PLANNING HISTORY

- PLAN/2016/1242 – Erection of a two-storey rear extension, a two-storey front extension, single-storey side extensions, a rear dormer, conversion of a garage into habitable accommodation and fenestration alterations –Permitted 28.02.2017

CONSULTATIONS

County Highway Authority: Object

Arboricultural Officer: Object

West Byfleet Neighbourhood Forum: No comments received.

REPRESENTATIONS

In response to initial neighbour notification on 07.03.2019, a total of 6 letters of representation were received raising the following comments:

- The gates to be fitted along the line of the wall would not allow for cars to access the site without obstructing the public footpath and highway leading to congestion and an obstacle for neighbouring properties using their driveways
- The height of the wall is out of keeping with the surrounding frontages on Pyrford Road, all of which are either open, hedged and/or low-walled
- Having any kind of gate right at the edge of the pavement will result in traffic along Pyrford Road being obstructed while a car waits for the gates to open;
- The materials used and the height of the wall are out of keeping with the surrounding properties;
- It will create an unsafe situation for pedestrians;
- The wall adds to the general amenity of Pyrford Road which is characterised by diverse houses and frontages;
- In terms of the effect on traffic, Pyrford Road is a Category D road with speed limits of 30mph. The application should be assessed on the basis of the stated speed limit.

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Amended plans were accepted and neighbours were re-notified of these amended plans on 21.06.2019 with neighbour comments to be received by 05.07.2019. In response to this additional notification, and at the time of writing this report, no additional letters of representation have been received.

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF) (2019):

Section 2 - Achieving sustainable development
Section 9 – Promoting Sustainable Transport
Section 12 - Achieving well-designed places
Section 15 - Conserving and enhancing the natural environment

Woking Core Strategy (2012):

CS1 - A Spatial strategy for Woking Borough
CS8 - Thames Basin Heaths Special Protection Areas
CS9 - Flooding and water management
CS18 - Transport and accessibility
CS21 - Design
CS24 - Woking's landscape and townscape

West Byfleet Neighbourhood Development Plan 2017-2027 (July 2017)

BE1 – Development Character
OS3 – Tress and Hedges

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

DM2 - Trees and landscaping

Supplementary Planning Documents (SPDs):

Woking Design (2015)
Outlook, Amenity, Privacy and Daylight (2008)

Other Material Considerations:

Planning Practice Guidance (PPG)

PLANNING ISSUES

1. The main issues to consider in determining this application are:
 - Principle of development
 - Character and Design
 - Impact on the Public Highway
 - Arboricultural Impactsand any other matters having regard to the relevant policies of the Development Plan.

Background

2. The revised National Planning Policy Framework (NPPF) was published on 24 July 2018 and is a material consideration in the determination of this application. The NPPF (2019) was published in February 2019 and provides minor clarifications to the revised version published in July 2018. However, the starting point for decision making remains the Development Plan, and the revised NPPF (2019) is clear at Paragraph 213 that existing Development Plan policies should not be considered out-of-date simply because they were adopted or made prior to February 2019. The degree to which relevant Development Plan policies are consistent with the revised NPPF (2019) has been

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considered in this instance, and it is concluded that they should be afforded significant weight.

3. Amended plans have been submitted during the course of the application in response to feedback from Officers. Neighbours were notified of these amended plans by letter dated 21.06.2019. These amended plans form the basis of the assessment of this application with some of the originally submitted plans being superseded.

Principle of Development

4. The application site is within the Urban Area where the principle of householder development is acceptable subject to the planning considerations of the impact upon the character and appearance of the surrounding area and any other relevant planning considerations.

Design and Impact on the Character of the Area

5. The NPPF (2019) sets out that one of the fundamental functions of the planning and development process is to achieve the creation of high quality buildings and places and that good design is a key aspect of sustainable development. Policy CS21 of the Woking Core Strategy (2012) states that development should respect and make a positive contribution to the street scene and the character of the area paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land. Policy CS24 of the Woking Core Strategy 2012 states that *'development will be expected to...respect the setting of, and relationship between, settlements and individual buildings within the landscape'* and to *'conserve, and where possible, enhance townscape character'*.
6. Policy BE1 (Development Character) of the West Byfleet Neighbourhood Development Plan (2017) sets out that residential development should complement the character of the Housing Character Zone in which it is located (in this case Zone D – Southern). It is set out that Zone D is of a similar character to Zone C (Dartnell Park) with many homes having gardens containing mature trees and with natural hedging along the borders.
7. The Woking Design SPD (2015) sets out that in areas of the lowest density of development (hereafter referred to as Arcadian), boundary treatments are of the utmost importance in defining the relationship between private space and the serving street. In terms of the streetscape in Arcadian areas it is stated that that the streetscape is dominated by landscape features and that: *'... the front gardens of properties usually determine the character and quality of the streetscape; 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.'*
8. The existing columns of the brick wall have a maximum height of approximately 1.6m, at the time of writing this report (it is understood that the applicant wishes to "cap" the wall to finish the building works). The pillars either side of the proposed entrance are shown to be approximately 1.8m in height on the submitted drawings. The brick wall between the pillars is approximately 1.35m in height. The proposed gates, as scaled off the submitted drawing, would have a maximum height of approximately 2.2m. The brick wall spans the frontage of the property with a gap of approximately 3m for the entrance to the property. The wall has been built up to the public highway with no set-back from the pavement.

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9. Reviewing 'Google Street View' photographs from April 2018 and June 2017 and photographs taken by the Planning Officer as part of their assessment of planning application ref: PLAN/2016/124, it is clear that the site previously had low-level close-board fencing along the front boundary of approximately 1m in height with mature laurel hedging between the fence and the property. It is stated on the submitted application form for planning permission ref: PLAN/2016/1242 that existing boundary fences would be retained as part of the permitted development and it is shown on the approved Site Plan that the existing hedge would be retained also.
10. It is noted that the boundary treatment along Pyrford Road is fairly consistent with properties on the west side having grass verges and low level hedging and mature trees providing an open, soft and sylvan character to the area. Boundary treatment on the east side of Pyrford Road generally consists of established hedging with low-level walls and fences. Mature trees located in the front gardens of properties along Pyrford Road, along with the grass verges and established hedging, give the appearance of a parkland or woodland glade setting.
11. Approximately 25m to the south of the site on the east side of Pyrford Road, boundary treatment temporarily transitions to higher fencing and walls. However, it is noted that this boundary treatment, including established hedging, encloses the rear gardens of dwellings accessed off Greenway Close and the properties which front onto Pyrford Road are relatively consistent in their boundary treatment which is typically low-level walls/fences and established hedging/mature trees.
12. Overall, it is considered that the brick wall does not make a positive contribution to the character or appearance of the existing site, the surrounding area or street scene with boundary treatment of both adjoining properties consisting of low-level fencing and a low-level brick wall of approximately 0.8m in height with established hedging behind. The existing wall and proposed gates are not of a pedestrian scale and provide a harsh frontage contrary to the prevailing well treed and vegetated character of this part of Pyrford Road.
13. The removal of the laurel hedge which accompanied the previous low-level fencing would not have required planning permission, but has nonetheless caused harm to the character and appearance of the area. The proximity of the brick wall to the TPO tree will likely have caused substantial damage to the root structure of this tree which contributes positively to the amenity of the area. For the avoidance of doubt, it is confirmed that what has been built and what is proposed would not be permitted under Class A (Gates, Fences, Walls etc.) of Part 2 (Minor Operations), Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
14. For the reasons set out above, it is considered that the existing wall is a discordant feature within the street scene which fails to respect the well treed/vegetated and open character of Pyrford Road. The brick wall and proposed gates fail to take account of the pedestrian environment, creating a harsh frontage to the street scene and eroding the prevailing green character of the area. The proposal is therefore contrary to Policies CS21 and CS24 of the Core Strategy (2012), Policy DM2 (Trees and Landscaping) of the Development Management Policies Development Plan Document (DMP DPD) (2016), Policy BE1 (Development Character) of the West Byfleet Neighbourhood Development Plan (2017) Section 12 of the National Planning Policy Framework (2019) and Supplementary Planning Document Woking Design (2015).

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Impact on the Public Highway

15. Paragraph 109 of the National Planning Policy Framework (2019) sets out that development should only be prevented on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
16. The accompanying text to Policy CS18 (Transport and Accessibility) of the Woking Core Strategy (2012) sets out that new developments can create significant transport, environmental and safety implications, and it is important that these are taken into account when determining planning applications. It further sets out that the Council will work in partnership with Surrey County Council to ensure development does not reduce highway safety.
17. The existing pillars of the brick wall have a maximum height of approximately 1.6m, at the time of writing this report (it is understood that the applicant wishes to “cap” the wall to finish the building works). The pillars either side of the proposed entrance are shown to be approximately 1.8m in height on the submitted drawings. The brick wall between the pillars is approximately 1.35m in height. The proposed gates, as scaled off the submitted drawing, would have a maximum height of approximately 2.2m. The brick wall spans the frontage of the property with a gap of approximately 3m for the entrance to the property. The wall has been built up to the public highway with no set-back from the pavement. The proposed gates would be installed on the existing wall adjacent to the pavement.
18. The County Highway Authority has assessed the application on highway safety and policy grounds and recommends that the planning application is refused as it has not been demonstrated that adequate visibility is achievable at the modified site access to safely accommodate the vehicle movements that are generated by the existing dwelling.
19. With reference to the proposed gates, the County Highway Authority note that as Pyrford Road is a ‘D’ class road, subject to a speed limit of 30mph, gates on this type of road would not normally require a set-back distance. However, as this part of the road is long and straight vehicle speeds could be higher than 30mph. The County Highway Authority advises that a minimum set-back distance for the gates should be 6m to allow enough room for a vehicle to pull up into the access without obstructing the public highway.
20. In terms of visibility splays, Pyrford Road is subject to a speed limit of 30 mph, and a modified access at this location would require visibility splays of at least 2.4m ‘x’ distance by 43m ‘y’ distance, in accordance with Manual for Streets. The submitted drawings do not correctly show these splays. It is not clear what the visibility splays at the site were before the brick wall was built, but it is clear that the fence was lower than the brick wall so it is highly likely that the brick wall has made access arrangements worse in highway safety terms. If a reduced visibility splay is proposed, the application would need to undertake a speed survey in order to establish actual vehicle speeds and justify any reduced visibility. Street View images from August 2016 show that the access did not have any gates.
21. The applicant has been made aware of the County Highway Authority’s comments and the amendments needed to make the scheme acceptable. Notwithstanding this, the applicant has chosen to proceed with the proposal as submitted and seek the retention of the brick wall as built and the erection of the gates.
22. It is considered that the applicant has failed to demonstrate that the development incorporates adequate visibility splays; the lack of set-back of the proposed gates from

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the public highway could also lead to the obstruction of the public highway. Overall, the applicant has failed to demonstrate that the proposal would not have an unacceptable impact on highway safety. The proposal is therefore contrary to Policy CS18 (Transport and Accessibility) of the Woking Core Strategy (2012) and the National Planning Policy Framework (2019).

Arboricultural Impacts

23. Policy OS3 (Trees and Hedges) of the West Byfleet Neighbourhood Development Plan (2017) sets out that development proposals should retain mature trees wherever possible and the proposed removal of any trees or hedges should be justified. Where a development proposal seeks to justify the removal of a tree or a hedge, it should demonstrate appropriate replacement with a similar variety within the development site to provide the best mitigation of impact on local character and the natural environment. This is a particularly important requirement where trees are removed and replacements need to be located to maintain the integrity of wildlife corridors.
24. Policy CS21 (Design) of the Woking Core Strategy (2012) sets out 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 treatments.
25. Policy DM2 (Trees and Landscaping) of the Development Management Policies Development Plan Document (DMP DPD) (2016) sets out 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.
26. The Council's Arboricultural Officer has been consulted on the planning application and responds that the brick wall that has been built could have caused substantial damage to the adjacent protected trees roots unless arboriculturally sensitive methods were employed. Had the wall not already been constructed the Arboricultural Officer would have required full arboricultural information which would have demonstrated how the wall could have been constructed without causing any damage.
27. As the wall has been built, Officers have referred this matter to the Arboricultural Officer for further investigation into whether a potential breach of Tree Preservation Order (TPO) has occurred.

Conclusion

28. Overall, it is considered that the brick wall is a discordant feature within the street scene which fails to respect the well tree/vegetated and open character of Pyrford Road. The brick wall and proposed gates fail to take account of the pedestrian environment, eroding the prevailing green character of the area and providing a harsh frontage to the street scene.
29. Furthermore, the applicant has failed to demonstrate that the development incorporates adequate visibility splays so as to ensure no adverse impact on the safety of the public highway. The lack of set-back of the proposed gates from the public highway could also lead to the obstruction of the public highway. The proposal is therefore contrary to Policies CS18, CS21 and CS24 of the Core Strategy (2012), Policy DM2 (Trees and Landscaping) of the Development Management Policies Development Plan Document (DMP DPD) (2016), Policy BE1 (Development Character) of the West Byfleet Neighbourhood Development Plan (2017) and Sections 9 and 12 of the National

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Planning Policy Framework (2019) and Supplementary Planning Document Woking Design (2015). It is therefore recommended that planning permission is refused.

BACKGROUND PAPERS

1. Site Visit Photographs – 10.06.2019
2. Final Response from County Highway Authority – 25.06.2019
3. Final Response from Arboricultural Officer – 20.03.2019

RECOMMENDATION

Refuse planning permission for the follow reasons:

1. The existing wall is a discordant feature within the street scene which fails to respect the well treed/vegetated and open character of Pyrford Road. The brick wall and proposed gates fail to take account of the pedestrian environment, providing a harsh frontage to the street scene and eroding the prevailing green character of the area. The proposal is therefore contrary to Policies CS21 and CS24 of the Core Strategy (2012), Policy DM2 (Trees and Landscaping) of the Development Management Policies Development Plan Document (DMP DPD) (2016), Policy BE1 (Development Character) of the West Byfleet Neighbourhood Development Plan (2017) Section 12 of the National Planning Policy Framework (2019) and Supplementary Planning Document Woking Design (2015).
2. The applicant has failed to demonstrate that the development incorporates adequate visibility splays and the lack of set-back of the proposed gates from the public highway could also lead to the obstruction of the public highway causing inconvenience to highway users and potentially adversely impacting highway safety. Overall, the applicant has failed to demonstrate that the proposal would not have an unacceptable impact on highway safety and the proposal is therefore contrary to Policy CS18 (Transport and Accessibility) of the Woking Core Strategy (2012) and the National Planning Policy Framework (2019).

It is further recommended:

- a) The Head of Legal Services be instructed to issue a Planning 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 to prosecute under section 179 of the Town and Country Planning Act 1990 (as amended) or appropriate power and/or take direct action under section 178 of the Town and Country Planning Act 1990 (as amended) in the event of non-compliance with the Notice in respect of the above land requiring the remedy of the breach of planning control to be achieved through the demolition of the brick wall, the restoration of the boundary treatment to its original condition prior to the construction of the brick wall and the removal of any paraphernalia from the site associated with complying with this notice.

Informatives

1. The plans relating to the retrospective planning application hereby refused are number/titled:

Front Wall at Ellingham, Pyrford Road, West Byfleet, Surrey, KT14 6QY, received 24.04.2019

Sight Line, received 20.06.2019

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Dwg No. 1048/TP/4B, Site Plan, Block Plan & Location Plan, received 28.02.2019
Location Plan, received 28.02.2019
Dwg. No. 1048/TP/4, received 28.01.2019
Block Plan, Site Plan, Existing Trees & Aerial View of Site, received 02.01.2019

2. 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 of the NPPF (2019). The Local Planning Authority has been in discussions with the applicant since the breach of planning control investigated by Planning Enforcement Officers in August 2018. The applicant has been unresponsive to the advice of Planning Enforcement Officers, continuing building works, and only submitted a valid planning application to seek planning permission for the unauthorised development on 01.03.2019. The applicant has been afforded the opportunity to amend the proposal to result in a policy compliant scheme which addresses the issues outlined in the above report but has chosen not to do so.