

6 JUNE 2023 PLANNING COMMITTEE

6d PLAN/2021/0500

WARD: Byfleet And West Byfleet

LOCATION: 51 Rectory Lane, Byfleet, West Byfleet, Surrey, KT14 7LR

PROPOSAL: Erection of boundary fence and outbuilding to front (retrospective).

APPLICANT: Mr Louis Arnold

OFFICER: Brooke
Bougnague

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 Delegation.

SUMMARY OF PROPOSED DEVELOPMENT

Erection of boundary fence and outbuilding to front (retrospective).

PLANNING STATUS

- Thames Basin Heaths SPA ZoneB (400m-5km)
- Urban Area
- Flood Zone 2

RECOMMENDATION

REFUSE planning permission and authorise enforcement action.

SITE DESCRIPTION

No.51 Rectory Lane is a semi-detached chalet bungalow sited on a corner plot at a junction with Rectory Lane, Winern Glebe and Hart Lane. A detached outbuilding has been constructed to the east of the property adjacent to Rectory Lane. A fence has been constructed on an existing low rise wall along the east and southern boundaries.

PLANNING HISTORY

PLAN/2001/0336 - Erection of a single storey side extension to replace existing conservatory with dormer windows in the front elevation to provide additional living space in the roof, erection of a porch to the front of the property; and erection of a single detached garage following demolition of existing. Permitted 22.06.2001

CONSULTATIONS

Byfleet, West Byfleet, Pyrford Residents Association: No comments received

SCC Highways: No comments received to date, committee will be updated of any comments

REPRESENTATIONS

None received

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF) (2021)

Woking Core Strategy (2012):

CS9 - Flooding and water management

CS21 - Design

CS24 - Woking's Landscape and townscape

Supplementary Planning Documents (SPDs):

Woking Design (2015)

Outlook, Amenity, Privacy and Daylight (2022)

BACKGROUND

Informal discussions have taken place with the applicant advising that the fence and outbuilding are unacceptable. The applicant did propose to relocate the outbuilding adjacent to the east elevation of the dwelling, but the outbuilding would still project beyond the south elevation. The applicant also proposed attaching some artificial hedge screening to parts of the fence. These amendments are not considered sufficient to overcome the issues raised, the application is considered based on the original plans submitted with the application which reflects what has been built on site.

The submitted application form states the work was commenced on 01.03.2020 and completed on 01.05.2020 and the fence and outbuilding are less than four years old and therefore not immune from enforcement action.

PLANNING ISSUES

Character of the Area

1. 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).
2. 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*”.
3. Supplementary Planning Document ‘Woking Design’ (2015) states “*boundary treatment should be well considered and in keeping with the existing building and streetscape*” and “*garages are usually best set back from the main building frontage*”.

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Fence

4. The application site is located on a prominent corner plot at a junction with Rectory Lane, Winern Glebe and Hart Lane. No.42 Rectory Lane, No.102 Hart Lane, No.69 Hart Road and No.44 Rectory Lane are all set back from the junction at an angle. The front boundaries of these properties are formed by hedges or low rise wall/fence. No.52 Rectory Lane is sited to the south of the application site and also addresses the junction and has a low rise wall with hedge behind marking the north and east boundaries. These all contribute to the open character of the junction and have boundary treatments that are characteristic of the area.
5. Properties along Rectory Lane, Winern Glebe and Hart Road are generally set back from the street behind a mixture of open frontages, low boundary walls and fences, and hedges of various heights. These boundary treatments further add to open character of the area.
6. The main garden for the property is sited to the west of the property and is enclosed with a low rise wall, pillars and fencing which are over 1m, but have been in place since at least 2008 and are not sited in a prominent corner position. From 'Google Street View' dated 2012 prior to the installation of the fence there was planting behind the low rise boundary wall which contributed to the open character of the area and was similar to other boundary treatments in the immediate area. Due to the change in site levels the height of the wall varies from 0.7m to 1.1m.
7. The planting has subsequently been removed and a 0.9m high fence has been placed on top of the section of wall fronting Rectory Lane and section of wall on the southern boundary that projects forward of the east elevation of the dwelling. This has resulted in the area of garden sited to the east of the dwelling being fully enclosed with a wall and fence varying in height from 1.8m to 2m. The fence includes slatted fence panels on the section of wall on the bend with close boarded panels either side.
8. It is considered that the wall and 0.9m fence is at odds with the prevailing front boundary treatments in the immediate area along Rectory Lane, Winern Glebe and Hart Lane.
9. Due to the combined height of the wall and fence, proximity to the road and length of the fence and wall the proposal appears out of character with the area. The prominent position of the dwelling on a corner plot at a junction with Rectory Lane, Winern Glebe and Hart Lane has resulted in the proposal being clearly visible from Rectory Lane, Winern Glebe and Hart Lane.
10. As the fence exceeds 1m in height and is adjacent to a highways and therefore would not be permitted development 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).
11. The proposed fence, by reason of height, siting and appearance would result in a visually harmful, incongruous and urbanising development which fails to respect the open character of the area. The proposal would result in a significantly harmful impact on the character of the surrounding area. The proposal is therefore contrary to Woking Core Strategy (2012) Policies CS21 and CS24, Supplementary Planning Document 'Design' (2015) and the National Planning Policy Framework (2021).

Outbuilding

12. Outbuildings can be permitted development under Class E (buildings etc incidental to the enjoyment of a dwellinghouse) of Part 1 (Development within the curtilage of a dwellinghouse), Schedule 2 of the of the Town and Country Planning (General Permitted

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Development) (England) Order 2015 (as amended) but must comply with a number of criteria. Outbuildings that are situated on land forward of a wall forming the principal elevation of the original dwelling house are not permitted development.

13. Permitted development rights for householders Technical Guidance (September 2019) defines principal elevation as *'in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.'*

There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation.'

14. The application site is located on a corner plot with Rectory Lane and Winern Glebe. No.51 and No.49 Rectory Lane are a pair of semi-detached dwellings. The ridgeline of the pair of semi-detached dwelling runs parallel to Rectory Lane and both properties have front gables that address Rectory Lane. The main entrance to these dwellings is in the north/south elevation and not the elevation fronting Rectory Lane. Properties along the west side of Rectory Lane close to the application site do not have their main access in the elevation fronting the Rectory Lane. However, the elevations of these properties fronting Rectory Lane have the main features such as front gables and bay windows. The main amenity area serving these properties is also sited to the west.
15. The application site has the same postcode (KT14 7LR) as other properties that front Rectory Lane which is different to the post code of the properties along Winern Glebe which is sited to the south of the application site where the main entrance is located.
16. A porch serving the main entrance to the dwelling was permitted at the application site under planning application PLAN/2001/0366. Although this architectural feature is normally in the principal elevations under Class E the principal elevation refers to the principal elevation of the original dwelling and therefore the addition of the porch does not have an impact on which elevation is the principal elevation.
17. Having considered the above, the east elevation of the dwelling fronting Rectory Lane is considered to be the principal elevation and therefore the outbuilding is situated on land forward of a wall forming the principal elevation of the original dwelling house and is therefore not permitted development.
18. No.53 Rectory Lane which is sited to the south of the application site has an outbuilding sited forward of the north elevation of this property which fronts onto Winern Glebe. This outbuilding is set back approximately 21m from the junction and there does not appear be any planning history for this outbuilding.
19. No.40 and No.42 Rectory Lane are sited to the north east of the application site and both have detached garages sited to the side of the dwellings which project forward of their front elevations. The garages are set back approximately 6.7m from Rectory Lane. There does not appear to be any planning history for the garage at No.40 only a building regulations application from 1975. The garage at No.42 was permitted in 1983 (application ref: 83/0091) under planning policies which have since been superseded.
20. There does not appear to be any other detached garages or buildings sited directly adjacent to Rectory Lane, Winern Glebe and Hart Lane.

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21. The outbuilding is 3.4m wide and 2.1m deep with a maximum height of 2.2m. The outbuilding is sited to the east of the dwelling at No.51 Rectory Lane approximately 0.2m from the boundary with Rectory Lane and 0.3m from the boundary with adjoining property No.49 Rectory Lane. The outbuilding is positioned behind the boundary wall and fence, but due to the height of the outbuilding it would project above the fence and be visible from Rectory Lane and Hart Road.
22. The outbuilding, by reason of its position, design, bulk and massing, would result in an unduly dominating, contrived and incongruous development which fails to respect the character of the host dwelling and surrounding area. The proposal would therefore unacceptably harm the character of the host dwelling and surrounding area, contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Document 'Woking Design' (2015) and the National Planning Policy Framework (2021).

Impact on Neighbours

23. Policy CS21 of the Woking Core Strategy (2012) advises 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.
24. Due to the position of the fence and outbuilding and relationship with neighbouring properties No.42, 44, 49 and 53 Rectory Lane and No.69 and 102 Hart Road it is considered that the fence and outbuilding have not resulted in a significant loss of daylight, overbearing impact or loss of privacy to these properties.
25. Overall, the proposal is therefore considered to have an acceptable impact on the amenities of neighbours in terms of loss of light, overlooking and overbearing impacts and accords with Policy CS21 of the Core Strategy (2012), Supplementary Planning Document 'Outlook, Amenity, Privacy and Daylight' (2022) and the policies in the NPPF.
26. However, the lack of any objection to the application on these grounds does not outweigh the other objection to the proposal.

Impact on highways and parking

27. The application site is located on the corner with Rectory Lane and Winern Glebe. Due to height and location of the fence SCC Highways have been consulted and committee will receive a verbal update at planning committee.

Impact on flooding

28. Policy CS9 of the Woking Core Strategy (2012) and Section 14 of the NPPF (2019) seek to direct development away from Flood Zones 2 (medium risk) and 3 (high risk).
29. Policy CS9 of the Woking Core Strategy (2012) states '*the Council will determine planning applications in accordance with the guidance contained within the NPPF*'.
30. Paragraph 168 of the NPPF (2021) states '*applications for some minor development and changes of use [this includes householder development] should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 55*'. Footnote 55 states '*a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3*'.
31. The application site is located in Flood Zone 2. No flood Risk Assessment has been submitted to show that the outbuilding has not led to a loss in flood storage as this will lead to an increase in flood risk to the site and the surrounding area.

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32. The application site is located in Flood Zone 2 and no Flood Risk Assessment has been submitted. It has not been demonstrated that the proposed development will not increase flood risk elsewhere or exacerbate the existing situation contrary to Policy CS9 of the Woking Core Strategy (2012) and the NPPF (2021).

Community Infrastructure Levy (CIL)

33. The increase in floorspace is under 100sqm. The proposal would not be Community Infrastructure Levy (CIL) liable.

CONCLUSION

34. The proposed fence, by reason of height, siting and appearance would result in a visually harmful, incongruous and urbanising development which fails to respect the open character of the area. The proposal would result in a significantly harmful impact on the character of the surrounding area. The proposal is therefore contrary to Woking Core Strategy (2012) Policies CS21 and CS24, Supplementary Planning Document 'Design' (2015) and the National Planning Policy Framework (2021).

35. The outbuilding, by reason of its position, design, bulk and massing, would result in an unduly dominating, contrived and incongruous development which fails to respect the character of the host dwelling and surrounding area. The proposal would therefore unacceptably harm the character of the host dwelling and surrounding area, contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Document 'Woking Design' (2015) and the National Planning Policy Framework (2021).

36. The application site is located in Flood Zone 2 and no Flood Risk Assessment has been submitted. It has not been demonstrated that the proposed development will not increase flood risk elsewhere or exacerbate the existing situation contrary to Policy CS9 of the Woking Core Strategy (2012) and the NPPF (2021).

37. For the above reasons the fence and outbuilding constitute a breach of planning control and it is considered expedient to take enforcement action against the unauthorised development and issue an Enforcement Notice.

38. It is therefore recommended that planning permission is refused and enforcement proceedings authorised.

39. Section 59 of the National Planning Policy Framework (NPPF) states;

- 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'. It is considered that enforcement action is proportionate for the reasons listed above.

BACKGROUND PAPERS

1. Site visit photographs

RECOMMENDATION

Refuse planning permission for the following reasons:

40. The proposed fence, by reason of height, siting and appearance would result in a visually harmful, incongruous and urbanising development which fails to respect the open character of the area. The proposal would result in a significantly harmful impact on the

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character of the surrounding area. The proposal is therefore contrary to Woking Core Strategy (2012) Policies CS21 and CS24, Supplementary Planning Document 'Design' (2015) and the National Planning Policy Framework (2021).

41. The outbuilding, by reason of its position, design, bulk and massing, would result in an unduly dominating, contrived and incongruous development which fails to respect the character of the host dwelling and surrounding area. The proposal would therefore unacceptably harm the character of the host dwelling and surrounding area, contrary to Policy CS21 of the Woking Core Strategy (2012), Supplementary Planning Document 'Woking Design' (2015) and the National Planning Policy Framework (2021).
42. The application site is located in Flood Zone 2 and no Flood Risk Assessment has been submitted. It has not been demonstrated that the proposed development will not increase flood risk elsewhere or exacerbate the existing situation contrary to Policy CS9 of the Woking Core Strategy (2012) and the NPPF (2021).

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:

- (i) Remove from the Land the fence panels and posts, which are situated at the east and southern boundaries of the site at the approximate location(s) shown dotted on the attached plan, in their entirety; and
- (ii) Remove the detached outbuilding sited adjacent to the north and east boundaries of the site so that it is no longer located forward of the principal (eastern) elevation; and
- (iii) To remove from the Land all materials, rubble, debris and paraphernalia associated with and arising from compliance with requirement (i) and (ii) above.

Informatives

1. The plans relating to the development hereby refused are listed below:

Unnumbered plan showing location plan received by the Local Planning Authority on 10.06.2021

Unnumbered plan showing site plan received by the Local Planning Authority on 10.06.2021

Plan titled 'Zone A see notes' received by the Local Planning Authority on 10.06.2021

Plan titled 'Zone B see notes' received by the Local Planning Authority on 10.06.2021

Plan titled 'Zone C see notes' received by the Local Planning Authority on 10.06.2021