

Application: 2023/602
Location: 1 Ashwood, Warlingham, Surrey, CR6 9HT
Proposal: Front gates, fence and brick pillars.
Ward: Warlingham West

Decision Level: Planning Committee

Constraints – Urban Area, D Road Classification, Tree Preservation Order, Ancient Woodland within 500m, Biggin Hill Safeguarding, Source Protection Zones 2 and 3

RECOMMENDATION: **GRANT subject to conditions**

1. The planning application has been called to Planning Committee following a Councillor request by Councillor Keith Prew who identifies the planning and enforcement history of the site and the effect of the gates and pillars on the character of the area as the main issues.

Summary

2. Planning permission is sought for the provision of front access gates, a boundary fence and brick pillars to 1 Ashwood, Warlingham an existing residential dwelling. The appearance of the development is considered to be acceptable and not unacceptably harmful to the amenities of the occupiers of neighbouring properties. There are no objections raised on any other ground and it is therefore recommended that planning permission be approved.

Site Description

3. The site comprises a detached dwelling located on the eastern side of Ashwood and southern side of Homefield Road within the Urban Area in Warlingham. The site is flat and can accommodate off-street parking to the front of the dwelling with two accesses existing. The surrounding area is residential in character.
4. At present, the site features two sets of gates, a set fronting Ashwood and a set fronting Homefield Road, that each measure 3.6 metres wide and approximately 1.8 metres tall. Brick pillars exist at each side of each set of gates that measure approximately 2 metres tall and 0.7 metres wide. The remainder of the frontage features a fence that measures between 0.97 and 1.07 metres tall except for one panel that measures 1.8 metres tall.
5. Within the vicinity of the site, boundary features include a variety of fences, railings and gates. In this regard it is considered relevant to have regard to the boundary enclosures at the following properties:
 - At 11 and 29 Homefield Road, 1.7 and 2 metre tall gates exist at the frontage of the site, with 11 Homefield Road featuring taller piers at each side.
 - The properties of 15 and 17 Homefield Road, feature fences at heights of 1.25 and 1.1 metres.

Relevant History

6. The planning history of relevance to this site is:

- 2012/104 – Enlargements to dwelling – Approved
- 2021/1658 –Retention of front gates, fence and brick pillars. (Retrospective)

This application related to the erection of gates, fences and brick pillars at heights of 1.8, 1.9 and 2 metres respectively. The application was refused for the following reason:

1. *The proposal, by reason of its scale, design, bulk and mass, would result in significant harm to the character and appearance of the existing site and surrounding area, contrary to Policy CSP18 of the Tandridge District Core Strategy (2008) and Policies DP7, DP9 of the Tandridge District Local Plan Part 2: Detailed Policies (2014).*

At appeal, the Inspector made the following key points:

“4. The surrounding area is characterised by detached dwellings set in spacious landscaped plots, with soft landscaping being a key feature.

5. Ashwood was designed as an open plan estate. Generally, the open plan design has been retained. While some dwellings in Homefield Road are also open plan the front gardens of most are enclosed by low fences and hedges. While high close boarded fences are not uncommon in the wider area they are in the minority.

6. From the evidence before me I note that the previous boundary treatment to the appeal site comprised a low post and rail fence with brick pillars at the two un-gated vehicle access points.

10. Given the prominent location of the appeal site, the height of the fencing and gates, together with the overall length of the site boundary the new fencing and gates as erected appear as a striking and visual obtrusive feature in the street scene. Given the open plan design of Ashwood and the predominantly green and wooded character of Holmfield Road they appear as a contrasting alien feature here.

11. I therefore conclude in respect of the main issue that the proposed new fence and gates would cause harm to the character and appearance of the area. To allow it would be contrary to the aims of Policy CSP18 of the Tandridge District Core Strategy (Adopted 15 October 2008) and LP Policies DP7 and DP9 as they relate to the quality of development and the need for new development to respect and contribute to the distinctive character, appearance, and amenity of the area in which it is located.”

- 2022/505 – Retention of front gates, fence and brick pillars (Retrospective)

This application related to the erection of gates, fences and brick pillars at heights of 1.9, 1.6 and 2 metres respectively. The application was refused for the following reason:

1. *The proposal, by reason of its scale, design, bulk and mass, would result in significant harm to the character and appearance of the existing site and surrounding area, contrary to Policy CSP18 of the Tandridge District Core Strategy (2008) and Policies DP7, DP9 of the Tandridge District Local Plan Part 2: Detailed Policies (2014).*

At appeal, the Inspector made the following key points:

7. The prevailing character of the area is residential with detached dwellings located on spacious plots of varying sizes and forms. The overall impression of the area is a leafy, verdant, open appearance with mature vegetation. Sites tend to feature reasonably deep frontages where soft landscaping is a key characteristic. The general openness gives the area a socially cohesive and inclusive ambiance.

8. The proposed height of the fence would be about 1.6m and the gates and brick pillars would be higher. The development would be sizeable, spreading around the corner of Ashwood into Homefield Road. At the proposed heights and lengths the development would appear stark and out of keeping with the prevailing open character of the area. Whilst there are boundary treatments in the area which include fences, these are generally lower fences, some obscured by hedging or some having hedging protruding higher than the fence. Even though they create enclosure, they at least lend a natural greenness to the appearance of the streetscene.

9. Furthermore, broadly speaking, front elevations of dwellings are not significantly obscured and the variety of architectural details can be appreciated. This would not be the case with the appeal dwelling as it would be much more obscured than many other dwellings in the vicinity and the fence, pillars and gates would present a hard edge to the streetscenes.

10. When the combined height of the fence, gates and pillars is considered in conjunction with the length of the fence overall, the development would represent a visually obtrusive form of development resulting in unacceptable harm to the character and appearance of the site and area.

11. Consequently, I conclude that the proposed development would unduly harm the character and appearance of the existing site and surrounding area and would be contrary to policy CSP18 of the Tandridge District Core Strategy (adopted 2008) and policies DP7 and DP9 of the Tandridge District Local Plan Part 2: Detailed Policies (adopted 2014).

7. The following enforcement history is of relevance:

- Enforcement Case ENF/2021/208

An Enforcement Notice was served on 31st May 2023. The identified breach was “Without planning permission, the construction of fencing, gates and gate pillars to the Northwest and Southwest boundaries of the property, at a height in excess of 1 metre while being adjacent to the highway.”

The identified reason for issuing the notice included the following:

“The development, by reason of its design, scale, bulk and mass results in significant harm to the character and appearance of the existing site and surrounding area. This is contrary to Policy CSP18 of the Tandridge District Core Strategy 2008 and Policies DP7 and DP9 of the Tandridge District Local Plan Part 2 : Detailed Policies (2014).”

The notice required the reduction of the height of the boundary fences, gates and gate pillars to a maximum height of 1 metre above adjoining ground level within 2 months of the notice taking effect.

Key Issues

8. The site is located within the Urban Area of Warlingham where the principle of development is acceptable. The key issue is the impact of the on the character of the property and the surrounding area, the residential amenities of neighbouring properties, highway safety and soft landscaping at the site.

Proposal

9. Planning permission is sought for the provision of two sets of gates, each measuring 3.6 metres wide and 1.4 metres tall. The brick pillars at each side of the gates measure 0.7 metres wide and would be 1.5 metres tall. The majority of the timber fence around the remainder of the frontage of the site would measure 1 metre tall. The fence posts would measure 1.1 metres tall and one fence panel adjacent to a pillar would measure 1.3 metres tall. A hedge that currently exists behind the fencing at the site is shown to be retained.
10. For the avoidance of doubt, the gates, pillars and taller panel of fencing that are proposed are not what is currently at the site.

Development Plan Policy

11. Tandridge District Core Strategy 2008 – Policies CSP1 and CSP18
12. Tandridge Local Plan Part 2 – Detailed Policies 2014 – DP1, DP7 and DP9
13. Woldingham Neighbourhood Plan 2016 - not applicable
14. Limpsfield Neighbourhood Plan 2019 - not applicable
15. Caterham, Chaldon and Whyteleafe Neighbourhood Plan 2021 – not applicable

Supplementary Planning Documents (SPDs), Supplementary Planning Guidance (SPGs) and non-statutory guidance

16. Surrey Design Guide (2002)
17. Tandridge Trees and Soft Landscaping SPD (2017)

National Advice

18. National Planning Policy Framework (NPPF) (December 2023)
19. Planning Practice Guidance (PPG)
20. National Design Guide (2019)

Statutory Consultation Responses

21. County Highway Authority – No objection.

22. Warlingham Parish Council – Warlingham Parish Council objects to this application due to the relative harm to the character and appearance of the site and surrounding area.

Other Representations

23. Third Party Comments –
- Out of character and not in keeping with the area.
 - Painting the fence black cause it to appear extremely austere.
 - Contrary to planning policies.
 - The changes to the structures are inadequate.
 - The plans do not accurately show the fencing that exists and previously submitted plans do not accurately show the buildings at the site.
 - The presence of protected trees is not shown on the plans.
 - Risk to the safety of all highway users.
 - Contrary to a covenant which forbids the erection of fences and the planting of hedges.
 - An access has been formed onto a private road without permission.
 - The height of the enclosures is alleged to be intended to screen a potential storage use on the land.
 - The dwelling is not permanently occupied and as such the statement relating to the use of the building within the application form is inaccurate.

Assessment

Procedural note

24. The Tandridge Development Plan is formed of Tandridge District Core Strategy 2008, Tandridge Local Plan Part 2: Detailed Policies 2014-2029, Caterham, Chaldon & Whyteleafe Neighbourhood Plan 2021, Limpsfield Neighbourhood Plan 2019 and Woldingham Neighbourhood Plan 2016, as well as the Surrey Waste and Minerals Plans . Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require decisions to be taken in accordance with the development plan, unless there are material considerations that indicate otherwise.
25. The NPPF is a material consideration in planning decisions and its policies have to be taken into account in dealing with applications from the day of its publication. It is important to note that even though the adopted Development Plan predates the publication of the most recent NPPF, the majority of policies remain up to date. Policies will be given due weight in accordance with their degree of consistency with the NPPF (December 2023, paragraph 225).

Location and principle of development

26. The application site lies within an Urban Area. The principle of development in this location is acceptable provided that it would meet the relevant criteria regarding its design and appearance as assessed below. Policy DP1 of the Local Plan (2014) advises that when considering development proposal, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. As such, there is no objection in principle to the location of the development and Core Strategy Policy CSP1 and Local Plan Policy DP1 in this regard.

Character and Appearance

27. The NPPF (December 2023) 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, creates better places in which to live and work and helps make development acceptable to communities.
28. Policy CSP18 of the Core Strategy requires that new development should be of a high standard of design that must reflect and respect the character, setting and local context, including those features that contribute to local distinctiveness. Development must also have regard to the topography of the site, important trees or groups of trees and other important features that need to be retained.
29. Policy DP7 of the Local Plan Part 2: Detailed Policies requires development to, inter alia, respect and contribute to the distinctive character, appearance and amenity of the area in which it is located, have a complementary building design and not result in overdevelopment or unacceptable intensification by reason of scale, form, bulk, height, spacing, density and design.
30. Policy DP9 of the Local Plan states:

“A. Where it is required, planning permission will usually be granted for fencing, walling, gates or other means of enclosure, where:

 1. *Proposals would not result in the enclosure of incidental landscaped garden areas or open plan gardens which contribute to the character of a residential area.*
 2. *In rural areas, proposals seek to incorporate native hedging, shrubs or low wooden fencing as they are generally considered to be more in keeping with the informality of such areas. Proposals involving harsh and/or incongruous features are unlikely to be permitted.*
 3. *In areas covered by a Village Design Statement or Design Guidance (SPG/SPD), proposals should conform to the guidelines and principles set out.*

B. In all cases, proposals must not result in adverse effects on the amenities of neighbours or on the character and appearance of the locality by reason of the scale of the proposals or the materials used.”
31. The prevailing character of the area is mostly detached dwellings set on spacious plots of varying sizes and forms. The overall impression of the area is a leafy, verdant, open appearance with mature vegetation. Sites tend to feature reasonably deep frontages where soft landscaping is a key characteristic. The site is located on the eastern side on Ashwood also bordering the highway of Homefield Road to the north. Given its corner positioning within the street; two boundaries of the site are therefore readily visible from within the streetscene from both approaches.
32. The application follows previous refusals under planning references 2021/1658 and 2022/505 which concluded that the developments that were the subject of those applications resulted or would result in significant harm to the character and appearance of the site and area. The commentary of appeals in relation

to those decisions are set out above. It is, however, considered to be relevant to note that the majority of the fencing that is the subject of this application would be between 0.6 metres lower in height than was previously assessed, the gates would be 0.5 metres lower and the brick pillars would also be 0.5 metres lower. As a result, the development that is the subject of this application is materially different and is required to be considered on its own merits.

33. The site description above includes a list of examples of how other properties within the vicinity of the site feature boundary enclosures. Whilst many properties within the vicinity of the site feature open frontages that are dominated by areas of grass and low level planting and several other properties are enclosed by dense hedges, it is relevant to note that some properties feature fences, gates and walls. These are of varied height, but it is noted that the adjacent fence is at the same height as the lower part of the enclosure that is the subject of this application and of similar alignment. Consequently, whilst soft landscaped enclosures are dominant, there are various means of enclosure within the vicinity of the site. This was acknowledged within the first appeal decision that is cited above.
34. The combination of fencing, gates, pillars and landscaping would obstruct views of the dwelling to a substantial degree and, as such, that element of most recent Inspector's objection remains applicable. The proposal would also continue to conflict with the first element of Policy DP9 which states that developments should not *"result in the enclosure of incidental landscaped garden areas or open plan gardens which contribute to the character of a residential area."*
35. However, the visual obstruction of the dwelling is now primarily caused by the hedge at the site. Planting a hedge is not an act of development and, as such, this impact is not able to be controlled or prevented by the Local Planning Authority. From that basis, it would be unreasonable to object to the presence of the hedge and the impacts of that hedge on the appearance of the site. It is noted that covenants about the provision of planting have been cited by objectors but such covenants are not determinative in relation to the assessment of this application.
36. The harder, formal and more solid means of enclosure that are the subject of this application compound the impact of the hedge and not being able to see the dwelling. However, in any case, views of the dwelling would be fleeting as there are only limited gaps between the hedge and, for the most part, the enclosures are at a low level that would be able to be seen over if the hedge were not present. The impact of the fence, being at a height of approximately 1 metre for the majority of its length rather than 1.6 metres or 1.9 metres as previously assessed, is considered to be significantly reduced. It is noted that the Enforcement Notice required the lowering of the former fence at the site to this height and the works that have been undertaken can be considered to be acceptable.
37. Whilst covenants have been brought to the attention of the Local Planning Authority, these are not binding on the decision of the Local Planning Authority. However, the fallback of 'permitted development' can be a material consideration and, in this case, it is noted that 'permitted development rights' relating to means of enclosure appear to have not been restricted. As a result, 1 metre high means of enclosure, including gates, could be erected at both frontages of the site without planning permission being required.

38. The additional height of the fence posts (0.1 metre) and one fence panel (0.3 metres) relative to the fallback position amounts to very minor additions for small elements of the overall fence. The visual impact of the additional height of these parts is considered to be very limited, would have a negligible difference to how the site is viewed from the public domain and an inconsequential impact on the character of the area.
39. The proposed gates and pillars would be taller, being up to 0.5 metres taller than what could be built under the terms of permitted development rights. As such, the fallback position is of less direct relevance in the assessment of these features. However, it is relevant to note that gates and pillars could be erected and, as such, the previously open frontage of the site could have been enclosed to a substantial degree without needing planning permission. Where comments of objectors relate to the enclosure of the site, it is considered that this impact could arise, to a degree, regardless of whether or not this planning application is approved.
40. As set out above, gates are not an uncommon feature of the locality and, whilst not dominant, they do exist. At the reduced height, relative to previous proposals, of 1.5 metres, it is considered that the visual impact of the gates and piers would not be overly imposing or dominating of the frontages of the site. They would obstruct views of the dwelling, but less so than before and not to a greater degree than the hedges that exist at the site.
41. These elements of the development would represent a harder edge to the site which was objected to by the Local Planning Authority and the Planning Inspector previously. Moreover, in conjunction with the fence, it remains the case that the harder edge would extend along the entirety of the site such that enclosures would dominate to a greater degree than is common within Ashwood and Homefield Road. However, again having regard to the fallback position of a 1 metre enclosure at both frontages, it is considered that the impact of the additional heights of the structures is not unacceptably different.
42. Overall, it remains the case that there is some conflict with Policy DP9 arising from the proposal as, relative to the most recent lawful condition of the site, the development represents the enclosure of an incidental landscaped garden area and an open plan garden which would have contributed to the character of a residential area. However, this impact could largely occur without planning permission being required and, in this case, the elements of the permission which result in planning permission being required do not cause material harm to the character or appearance of the site or the surrounding area.
43. Therefore, even recognising the conflict with an element of Policy DP9 of the Tandridge District Local Plan Part 2: Detailed Policies 2014, it is considered that the visual impact of the development would accord with policies DP7 of the Tandridge District Local Plan Part 2: Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008 and, therefore, would accord with the development plan when taken as a whole.

Residential Amenity

44. Policy CSP18 of the Core Strategy advises that development must not significantly harm the amenities of the occupiers of neighbouring properties by reason of overlooking, overshadowing, visual intrusion, noise, traffic and any adverse effect. Criteria 6-9 of Policy DP7 of the Local Plan Part 2: Detailed

Policies seek also to safeguard amenity, including minimum privacy distances that will be applied to new development proposals.

45. The above policies are consistent with the guidance of the NPPF, which seeks amongst other things to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users of development.
46. The site is positioned on the corner of Ashwood and Homefield Road and given the overall scale of the development and relationship to neighbouring properties, including the separation from habitable rooms within the nearby properties, the proposal would not have a significantly overpowering impact on the neighbouring properties surrounding the site. The proposed development is not considered to result in significant harm to neighbouring amenity by reason of overbearing or overshadowing effects.
47. For the reasons outlined, the proposal is considered acceptable in terms of the potential impact upon the residential amenities and privacy of existing properties and therefore no objection is raised in this regard against Policy DP7 of the Local Plan (2014) and Policy CSP18 of the Core Strategy (2008) or the NPPF.

Parking Provision and Highway Safety

48. Policy CSP12 of the Core Strategy advises that new development proposals should have regard to adopted highway design standards and vehicle/other parking standards. Criterion 3 of Policy DP7 of the Local Plan also requires new development to have regard to adopted parking standards and Policy DP5 seeks to ensure that development does not impact highway safety.
49. The County Council Highways Authority have commented and have no objections to the development. It is considered that sufficient sight lines exist to ensure that the development does not result in a harmful impact on highway safety. The internal arrangements of the site will remain unaltered which currently serve an appropriate level of parking. As such, no objections are raised with regards to highways safety, capacity, or parking.

Landscaping and Trees

50. Policy CSP18 of the Core Strategy required that development must have regard to the topography of the site, important trees and groups of trees and other important features that need to be retained. Criterion 13 of the Local Plan Policy DP7 required that where trees are present on a proposed development site, a landscaping scheme should be submitted alongside the planning application which makes the provision for retention of existing trees that are important by virtue of their significance within the local landscape.
51. The Tandridge Trees and Soft landscaping SPD (2017) outlines the importance of landscaping which applies to urban and rural areas and advises that it is *'essential that the design of the spaces around building is given the same level of consideration from the outset as the design of building themselves'*. Trees are not only a landscape environmental benefit but, as the SPD outlines, a health benefit for people which enhances their environment.
52. The Principle Tree Officer was consulted and commented as follows: "The brick pillars are highly unlikely to have had any negative effect on the TPO lime and

horse chestnut trees growing on the boundary, and as such no objections are raised, and no tree related conditions are proposed.” This stance is agreed with and, therefore, no objection is raised in this respect.

Other matters

53. Third Party comments refer to existing covenants over the land which restrict certain forms of development. This is a private matter and not a material planning consideration. It is the applicant’s responsibility to ensure that the development can be lawfully executed over the land and not a matter for the Local Planning Authority.

Conclusion

54. In conclusion, due to the positioning, size and scale of the development, the development would not significantly affect the amenities of neighbouring properties, nor would the proposal have a detrimental impact upon the character and appearance of the building or the surrounding area. Whilst there would be some conflict with Policy DP9 of the Tandridge District Local Plan Part 2: Detailed Policies 2014, the proposal accords with all other elements of the development plan in this respect. No harm is identified in any other respect, in particular highways and trees. The development is considered to accord with the development plan as a whole and it is, therefore, recommended that planning permission be granted subject to conditions.
55. The recommendation is made in light of the National Planning Policy Framework (NPPF) and the Government’s Planning Practice Guidance (PPG). It is considered that in respect of the assessment of this application significant weight has been given to policies within the Council’s Core Strategy 2008 and the Tandridge Local Plan: Part 2 – Detailed Policies 2014 in accordance with paragraph 218 and 219 of the NPPF. Due regard as a material consideration has been given to the NPPF and PPG in reaching this recommendation.
56. All other material considerations, including third party comments, have been considered but none are considered sufficient to change the recommendation.

RECOMMENDATION:

GRANT subject to conditions

1. This decision refers to drawings numbered 4426 and red-edged site plans received on 17th May and 26th July 2023. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.

Reason: To ensure that the scheme proceeds as set out in the planning application and therefore remains in accordance with the Development Plan.

Informatives

1. Condition 1 refers to the drawings hereby approved. Non-material amendments can be made under the provisions of Section 96A of the Town and Country Planning Act 1990 and you should contact the case officer to discuss whether a proposed amendment is likely to be non-material. Minor material amendments will require an application to vary condition 2 of this permission. Such an application would be made under the provisions of Section 73 of the Town and Country Planning Act 1990. Major material amendments will require

a new planning application. You should discuss whether your material amendment is minor or major with the case officer. Fees may be payable for non-material and material amendment requests. Details of the current fee can be found on the Council's web site.

The development has been assessed against Tandridge District Core Strategy 2008 Policies CSP1 and CSP18, Tandridge Local Plan: Part 2: Detailed Policies – Policies DP1, DP7 and DP9 and material considerations. It has been concluded that the development, subject to the conditions imposed, would accord with the development plan and there are no other material considerations to justify a refusal of permission.

The Local Planning Authority has acted in a positive and creative way in determining this application, as required by the NPPF (December 2023), and has assessed the proposal against all material considerations including the presumption in favour of sustainable development and that which improves the economic, social and environmental conditions of the area, planning policies and guidance and representations received.