

Date Published: 19 September 2018



## **PLANNING COMMITTEE**

**19 JULY 2018**

### **SUPPLEMENTARY PAPERS**

**TO: ALL MEMBERS OF THE PLANNING COMMITTEE**

The following papers were circulated at the above meeting.

Gill Vickers  
Executive Director: Delivery

**Page No**

### **PLANNING APPLICATIONS**

(Head of Development Management)

**The conditions for public speaking have been met in the applications marked 'PS'.**  
**For further information or to register for public speaking, please contact Customer Services 01344 352000.**

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Agenda Annex

**BRACKNELL FOREST BOROUGH COUNCIL**  
**PLANNING COMMITTEE**  
**19th July 2018**  
**SUPPLEMENTARY REPORT**

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**Correspondence received and matters arising following preparation of the agenda.**

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**Item No: 5**

**17/01327/FUL**

**Petrol Filling Station Bracknell Road Crowthorne Berkshire RG45 6ST**

ISSUE DATE: 19.07.18

**Amendment to Officer Report**

Paragraph 5.2 should read as follows:

...The building would have a maximum height of 6.7m with a hipped roof design...

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**Item No: 6**

**18/00125/FUL**

**77-79 Deepfield Road Bracknell Berkshire RG12 2NU**

ISSUE DATE: 19.07.18

Paragraph 9.35 should read as follows

An Appropriate Assessment has been carried out for this development in accordance with the Conservation of Habitats and Species Regulations 2017. Without any appropriate avoidance and mitigation measures the Appropriate Assessment concludes that the development is likely to have a significant effect upon the integrity of the SPA with the result that the Council would be required to refuse the planning application. Natural England have been consulted on the Appropriate Assessment for the application in accordance with Paragraph 63 (3) of the Conservation of Habitats and Species Regulations 2017 . Natural England have confirmed in an email dated 11 July 2018 that they have no comments to make on this application, as long as the relevant avoidance and mitigation measures specified in the Appropriate Assessment are secured.

**Additional information**

Deepfield Road is covered by a Resident's Parking Zone (RPZ); and (if permitted), the new residential estate serving this site should be included within the RPZ. This would not prevent existing residents, and their visitors from parking along the new access road; though it would limit this to existing permits holders, and those properties outside of the zone would be restricted from parking along this new access road. The cost of this should be secured via s106 obligation. The road is being sought for adoption; and if it were excluded from the RPZ, then this would not preclude vehicles from parking on-street, or any parking bays within it. Therefore, it is advised that including the new development in the RPZ will protect parking in the area for all those concerned.

The internal roads will be adopted, and this will be secured through a Section 106 Agreement.

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**Item No: 8  
18/00566/FUL  
Manor Farm House Binfield Road Binfield Bracknell Berkshire RG42 4LX**

ISSUE DATE: 19.07.2018

Amendment to officer report

Amendment to description of the development:

An amended plan has been received showing a timber palisade boundary fence superseding the timber weave boundary fence as originally submitted and hence the description has been amended to reflect this. Whilst this alteration does result in a more open style of fence, it is not considered sufficient to overcome the reasons for refusal referred to in the officer's report.

Para 7.2 the Principal Historic Buildings Consultant has confirmed that his original comments still apply due to the lack of change in the application.

Para 9.3 has been deleted from the report. Paras 9.4 to 9.14 contain the consultee comments from the Principal Historic Buildings Consultant for the previously refused application (18/00153/FUL), which was for a fence of the same height and design in the same location. These comments have also been supported by the Planning Inspectorate. A copy of the Inspector's decision is attached in appendix A.

Para 9.25 the unlawful fence, subject to the dismissed appeal against enforcement action, has now been removed. As this proposed development is for a new fence, the removal of the existing is not considered to alter the conclusions of the report.

Fig 1 represents the position of the recently removed, unlawful fence.

Paras 9.26 to 9.28 have been deleted from the report.

For clarity the enclosure of highway land would require planning permission; however this enclosure of land forms no part of this application or assessment. The principle of enclosing highway land is not a reason for refusal, as it has not been demonstrated to have a harmful result. The reduction in visibility as a result of the proposed fence would result in a detrimental impact on highway safety and therefore constitutes a reason for refusal (reason 3 on page 74).

Informative 03 should read as follows:

03. It is noted that the proposed development could be acceptable if it were to be set back from the south-western boundary of the application site by a minimum of 2 metres and a planting scheme for screening being provided.

Addition to officer report

Appendix A

Appeal Decision

Site visit made on 27 December 2017

by Andrew R Hammond MSc MA CEng MIET MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 January 2018

Appeal Ref: APP/R0335/C/17/3176803

Manor Farm, Binfield Road, Bracknell, RG42 4LY

- o The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- o The appeal is made by Mr Ben Lewis against an enforcement notice issued by Bracknell Forest Borough Council.

- o The enforcement notice, numbered En/16/00014/UOPD, was issued on 12 May 2017.
- o The breach of planning control as alleged in the notice is without planning permission the erection of (a) 1.8m high timber fence adjacent to the highway.
- o The requirements of the notice are
  - 1) Remove the timber fence, fence posts and bottom rail from the land as indicated in the approximate location with blue coloured line on the attached plan; and
  - 2) Remove all materials associated with step (1) from the land.
- o The period for compliance with the requirements is two months from the date the notice takes effect.
- o The appeal is proceeding on the grounds set out in section 174(2)(a) & (g) of the Town and Country Planning Act 1990 as amended.

#### Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

#### The Ground (a) Appeal

2. Under ground (a) the appellant submits that planning permission should be granted for what is alleged in the enforcement notice.

#### Main Issues

3. The main issues in this appeal are the effect of the development on the character and appearance of Binfield Road; the effect on the setting of Manor Farm, a Grade II listed building; and the effect on highway safety.

#### Reasons

##### Character and appearance

4. The fence, which is around 1.8m high, is constructed immediately adjacent to the edge of the shared cycleway/footway alongside Binfield Road, the B3018. The fence is in front of a strip of land which the Council describe as being amenity land within the highway boundary as opposed to being within the ownership of the appellant. Whilst evidence has not been provided to substantiate that claim it would appear from photographic evidence that a previous boundary post and rail fence was located to the rear of roadside vegetation.

5. The fence consists of close boarded timber panels between concrete posts and with concrete bottom rails and it has a stark and sub-urban appearance in the leafy setting of Binfield Road, particularly given its location at the footway edge with no intervening verge. Although the fence would weather with age it would remain incongruous in the streetscene. As such it has, and would continue to have, a significant detrimental urbanising effect on the character and appearance of Binfield Road, contrary to Policy CS7 of the Bracknell Core Strategy Development Plan Document (2008) (CS) which require development to build on urban, suburban and local character, respecting local patterns of development and the historic environment. The development is also contrary to saved Policy EN20 of the Bracknell Forest Local Plan (2002) which requires development to be in sympathy with the appearance and character of the local environment and appropriate in scale, mass, design, materials, layout and siting, both in itself and in relation to adjoining buildings, spaces and views.

6. It is noted that the appellant has drawn attention to a number of other fences in the area. However those fences are either set back from the highway or are otherwise not directly comparable to the appeal proposal.

7. The appellant has questioned the Council's reference to LP Policy H12 which relates to development involving the change of use or enclosure of landscaping and amenity strips or other similar land for residential purposes. The Council contend that the fence encloses a landscaping strip alongside Binfield Road. Given that the Council have not provided the evidence that the strip is within the highway boundary and is not residential land within the ownership of the appellant, little weight can be attached to the Council's case on this matter.

## **Setting of Manor Farm**

8. The National Planning Policy Framework (the Framework) makes clear, at paragraph 134, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

9. The fence is set alongside the frontage of Manor Farm, albeit to the north-west of the house itself. Whilst it is noted that the fence may not obscure direct views of the listed building; the meaning of 'setting' in the Framework was clarified by case law in *Steer v SSCLG* where the Judge stated that the lack or indeed existence, of a visual and/or physical connection of a development site to a heritage asset should not be the determining factor when considering the 'setting' in terms of the Framework definition being an identification of 'surroundings in which a heritage asset is experienced'. The word 'experienced' has a broad meaning, which is capable of extending beyond the purely visual.

10. The stark sub-urban character of the fence inevitably causes detriment to the setting of the listed building built in the early 18th century.

11. The appellant suggests that the fence provides for the safety of pedestrians and cyclists in that the ground drops away adjacent to the footway by up to 400mm. However any public benefit on the grounds of safety is limited and does not outweigh the harm to the setting of Manor Farm. The development is therefore contrary to the provisions of the Framework.

## **Highway safety**

12. The Council contend that the fence, sitting as it does forward of the brick walled 'bell mouth' at the entrance to Manor Farm, restricts visibility to the north by drivers leaving the property, particularly in respect of cyclists on the shared footway/cycle path. It is not possible to ascertain what the visibility through the roadside vegetation would have been prior to the installation of the fence but the introduction of the 1.8m high solid barrier will no doubt have resulted in some detriment to highway visibility and, as a result, to highway safety adding to the harm described above.

13. The Council have also suggested that the fence would prejudice possible future improvements to the cycleway. Given that these improvements are currently only under investigation, this matter carries very little weight in the determination of this appeal.

## **Other matters**

14. The appellant refers to paragraph 32 of the Framework which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. However, that part of paragraph 32 is concerned with transport effects, namely vehicle movements and the impact on the highway network, not highway safety.

## **Conclusion on Ground (a)**

15. For the reasons given above I conclude that the appeal on ground (a) should not succeed.

## **The Ground (g) Appeal**

16. Under ground (g) the appellant pleads that, given the length of the fence, 3 months should be allowed for compliance.

17. A contractor could remove the existing fence within a matter of weeks. It should be possible to agree with the Council an appropriate and permissible form of boundary treatment to replace the previous boundary treatment behind the landscaping strip within the two months compliance period.

18. The ground (d) appeal is, therefore, dismissed.

**Overall Conclusion**

19. For the reasons given above and taking account of all material planning considerations I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Andrew Hammond  
Inspector

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