

Reference Planning Application: APP/22/00064

Site Address: 5 Willow Close, Havant PO9 2SX

Proposal: Replacement 1.8m high boundary fence (Retrospective)

OBJECTION

I object to this Application on the following grounds:

1. Policy

The Application is governed by the Town and Country Planning Act 1990, as amended, and The Town and Country Planning (General Permitted Development) (England) Order 2015 ["GPDO"].

GPDO Schedule 2 Part 2 Class A Permitted Development applies to:

"A. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

A.1 Development is not permitted by Class A if—

(a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed—

(ii)[other than in a school], 1 metre above ground level;"

The erection of 1.8 metre close-board fencing along the boundary of 5 Willow Close is therefore not permitted development per A.1 (a) (ii) GPDO 2015 and there is a strong presumption against approval. The Applicant has presented no compelling reasons why the policy should be disregarded. A comparable application to erect 2 metre boundary fencing adjacent to the highway by the owner of a neighbouring property, 1 Willow Close, in 1999 (Reference 99/64460/000) was rejected by the planning authority on the ground that granting such permission would be unlawful and it is important that planning regulations are consistently applied.

The Application is for a "*Replacement 1.8m high boundary fence (Retrospective)*". The Applicant is perhaps seeking to rely on Schedule 2 Part 2 A.1 (c) GPDO 2015, which permits an *existing* fence to be "maintained, improved or altered", provided its former height is not increased, although it should be noted it is established that, in this context, alteration does not include demolition and reinstatement. (See Hope LJ in *Shimizu (UK) Ltd v Westminster City Council* [1997] 1 W.L.R. 168.) The Applicant's supplementary correspondence dated 19 August 2022 would indicate that the condition of any existing fence was extremely poor and well beyond the point where it would be a candidate for maintenance, improvement or alteration.

Willow Close is a public highway, adopted by Havant Borough Council. "Permitted development rights for householders – Technical Guidance" document (April 2016) provided by The Department for Communities and Local Government (DCLG) defines "highway" as "*a public right of way such as a public road, public footpath and bridleway.*" (*General issues – page 6.*) The definition therefore includes both road and pavement and is pertinent to this Application.

2. Appearance and outlook

Wade Court is a community of seventy-two houses, set in five private roads (Wade Court Road, Shawfield Road, Elm Road, South Close and North Close) and one adopted road of five houses (Willow Close) between Emsworth Road, Havant and the western end of Chichester Harbour, sited to the north of the A27. The area is semi-rural in character, with mature trees and an abundance of birds and wildlife, transitioning to the farmland and natural landscape of Chichester Harbour. Predominantly, residents define the boundaries of their properties with hedging to maintain the character of the community and to support wildlife. Farmland and common land commence approximately 300m south of Willow Close.

The proposed development urbanises the outlook and impairs the visual amenity of other houses in Willow Close. It detracts from the special character of the local area.

The Applicant references in mitigation the existence of boundary fencing adjacent to the highway in a nearby property and submits document PROPERTY_OPP_HEDGE_FENCE_HEIGHT_1592645 in support. The identified property is at 8 Wade Court Road, which has a southern boundary running along the entrance to Willow Close. The fencing to this property's boundary is historic, predating all relevant legislation, and therefore has no bearing on this Application. Its location is immediately adjacent to the property at 1 Willow Close whose 1999 application for similar fencing was refused. The existence of this historic fencing therefore did not influence the 1999 decision and likewise should not influence the current decision.

3. Conservation of hedgerows and loss of natural habitat

The Application involves the destruction of healthy, mature hedging that provides a habitat for nesting birds, mammals, invertebrates and insects. The Applicant's negative statement in Section 7 of the Application regarding the removal of hedges is incorrect, as the fence for which approval is now sought could not have been erected so close to the highway (20 cm) without first removing the existing hedge.

4. Factual accuracy

It is important for the integrity of the planning process that Applications contain information that is complete and accurate. Section 7 of the Application asks about the presence of trees or hedges which would need to be removed or pruned in the course of the development. The Applicant has responded negatively. It is the case that, at the point of application, no hedging would need (i.e. in the future) to be removed in order to carry out the proposed development. However, this is only so because the hedging had already been completely removed by the Applicant before the proposal was submitted and, therefore, a positive response to that question would have been more appropriate.

5. Other

The new 1.8m fencing along Willow Close has been erected only 20cm from the public footpath. The Applicant has planted pyracantha hedging between the fencing and the public footpath, with plants only 12cm from the footpath. Hedging suppliers "hedginguk.com" describe pyracantha as "A thick, bushy, very spiny and quick growing evergreen shrub...with thorns reaching 3cm in length."

Pyracantha is wholly unsuitable in this location. The placing of the fence means there is insufficient room for the plants to grow into a hedge without impeding the public footpath. Its rapid growth and vicious thorns pose a risk of injury to pedestrians. There is already growth impeding a clear passage along the footpath. This does not represent a "like for like" replacement of the attractive but innocuous pre-existing evergreen hedge.

For the above reasons, I submit that the application should be refused.