

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

S.78 APPEAL STATEMENT ON BEHALF OF MRS F BAKER

for

Retention of current boundary treatment, new fence and wall at front of
property (retrospective application)

at

79 Kingsway Chandlers Ford HAMPSHIRE SO53 1FH

LPA ref – H/22/92941
ACHIEVE ref – SRL.027.22

1.0 Background, context and Appeal site characteristics

1.1 I am Steve Lawrence MRTPI, Director of ACHIEVE. I have over 36 years' experience as a chartered town planner, including 27 in local government, establishing my own consultancy in August 2013. I also have a Diploma in Urban Design, so am well qualified to comment on matters of an area's character and what helps to define it.

1.2 Following the refusal of application H/22/92941 on 27 July 2022 (**Document 1**), I have subsequently been instructed to lodge this Appeal.

1.3 The Appeal site lies near the junction with Kingsbury Gardens within the identified Kingsway sub-area - (No. 3) - of the Council's Chandlers Ford and Hiltingbury residential character area assessment, described within **Document 2** as –

"This area includes a range of detached dwellings, many with individual characteristics. The average plot size is about 0.11 hectares. There are many mature trees in the locality."

(Appellant's underlining). No specific mention is made of the character of boundary treatments to plots.

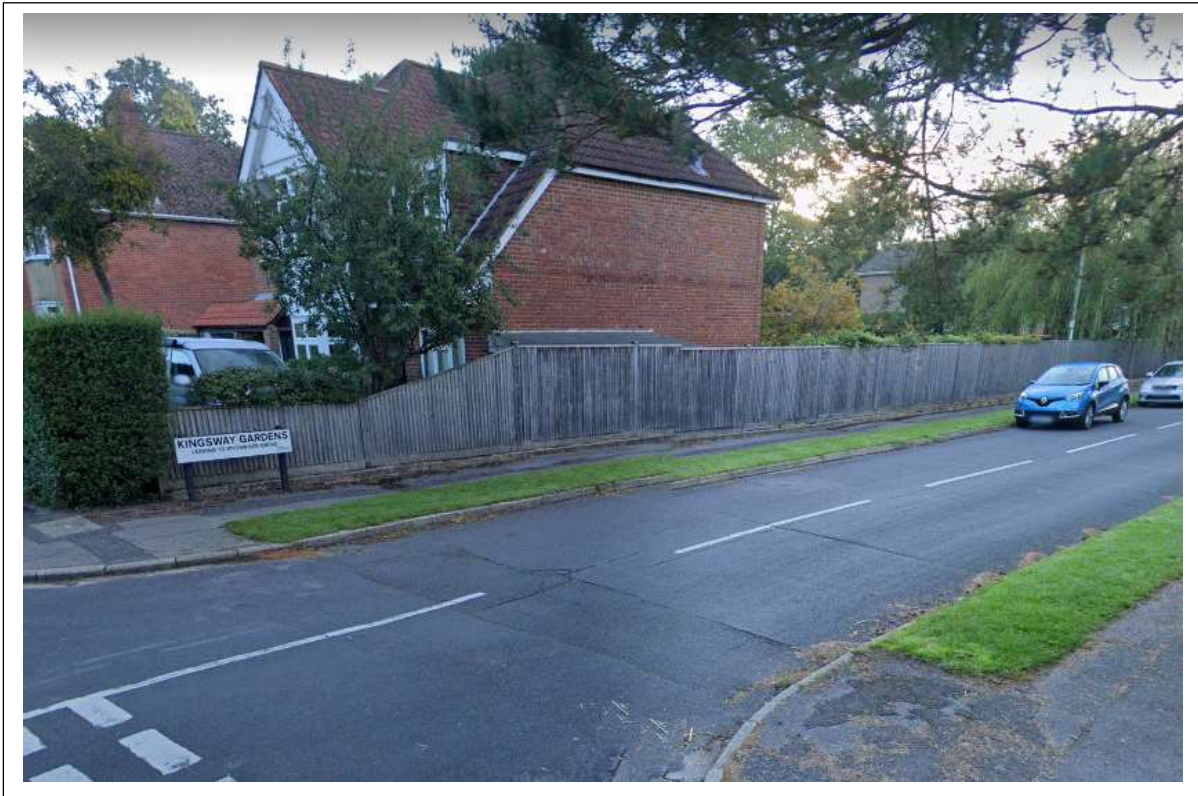
1.4 Photographs of the site from Google streetview (September 2020), prior to the development being carried out are shown in **Document 3**. A low level vertical, close boarded fence had been back-planted with a privet hedge. Brick piers flanked the point of vehicular access to the street. It can be seen that the timber fencing had deteriorated and was in need of replacement.

1.5 There are a variety of boundary treatments in the street and in Kingsway Gardens, including close-boarded fencing, of varying heights. In some cases, merely privet or laurel hedging forms the front boundary enclosure.

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The predominant front boundary treatments are low walls (some of which have been partly rendered and painted white), with many back planted with hedging. Front boundary treatments in Kingsway Gardens are generally more open, with little enclosure save often for dwarf front walls.

Close boarded fencing at the junction of Kingsway Gardens and Kingsway



- 1.6 Within Kingsway, there are some examples of brick boundary walls punctuated by vertical brick piers, with timber panels between the piers. 101 Kingsway has this front boundary treatment (seen below),



143 Kingsway



with 58 (junction with Rufus Close – seen below) just having timber fencing above a white painted, rendered wall.



Elsewhere timber picket or rail style fencing exists, or as at 73, close boarded timber panels between upright concrete posts (both seen below).







At 107-109, close-boarded fencing on its own forms the front boundary. Some vehicular access points to plots have been further enclosed by timber 5 bar gates, such as those opposite the Appeal site.



- 1.7 The character of front boundary treatments in Kingsway is therefore not homogenous and the Council have appeared to have accepted alternative forms of boundary treatment.

2.0 **Site History**

- 2.1 There is no other relevant site history other than the retrospective refusal which now forms the subject of this Appeal. The Appellant is not a town planner and merely considered that as the means of enclosure intended was no higher than the pre-existing hedge, assumed that no application would be necessary. As soon as they were requested to make an application, they made one and this was registered on 1 June 2022 under the reference H/22/92941. On 20 July 2022 the Council refused the application for its single reason set out in **Document 1**.

- 2.2 The Appellant notes with interest that the Council's adopted guidance on development in the Kingsway sub-zone of the Chandlers Ford and Hiltingbury residential character area, has not been relied upon in the reason for refusal. It is true that that document does refer to superseded Development Plan and national Planning Policy, but its character assessment descriptions are still of use. Somewhat unhelpfully, the reason refers to the NPPF, without specifying any particular paragraphs. The Appellant will focus on Chapter 12 of the July 2021 NPPF in this Appeal. The similar criticism is made in referencing the Quality Places SPD. The Appellant will focus on page 23, which refers to 'boundary structures'. These extracts are referred to in **Document 2**.

- 2.3 Since the application has been refused the Appellant has been written to on 4 August 2022, offering that if a revised application were to be made on the basis of the removal of –

“... the three new columns in the middle as well as the fencing then this boundary treatment would be deemed acceptable. The existing hedge will then provide a softer appearance...”.

The Appellant has instead decided to pursue this Appeal for the reasoning now set out below.

3.0 **The refusal of H/22/92941, policy/guidance considerations and the planning balance**

- 3.1 The Council criticises the design of the new boundary enclosure. It does not criticise the materials and their colouring used per se, nor indeed could it, as front boundary enclosures in the wider area include brick and timber. The Council's own published advice also is to have regard to the character of the wider area (paragraph 3 of the Chandlers Ford and Hiltingbury residential character area assessment in **Document 2**).

Having regard to the Council's own advice in paragraph 2.3 above, the criticism appears to relate to those piers in the main enclosure constructed, not including the piers framing the access point and that on the common boundary with 77 Kingsway. It must also relate to the horizontal boarded timber panels between the piers. The Appellant will there focus on those elements in making this Appeal.

- 3.2 The Council cites the NPPF (but curiously refers to two different versions in the refusal Notice). As has been said, the most relevant part to this Appeal is Chapter 12 of the July 2021 version. Chapter 12 concerns delivery of well-designed places to produce sustainable development, envisaged under paragraph 11. The Appellant argues that the Council does not say that the design of the boundary enclosure is poorly designed per se, merely that it considers it to be '*discordant*' from the character of the '*surrounding street scene*'. The Appellant sets out the stylish boundary enclosure, featuring contrasting colour brick detailing, with contemporary timber boarded panels has been well constructed of robust materials. An element of the previous hedge has been retained and planting back new hedging (seen below), will, in a short time, overtop the timber element/piers to soften its appearance. The retained hedging already overtops the enclosure.



- 3.3 Paragraph 126 of the NPPF asks Local Planning Authority's to set out "*clear design expectations and how they will be tested*", to assist developers. This advice is repeated in the first sentence of paragraph 127. Such expectations are not clearly set out in the Council's relevant SPD and it is clear the Council appears to have sanctioned a wall with interval piers at 101 and 143 Kingsway seen above. The defining characteristics in terms of front boundary enclosures to residential plots is not set out in the Council's SPD. There is no published 'design code' for the Kingsway sub-zone of the Chandlers Ford and Hiltingbury Character Assessment, as encouraged in paragraph 128, where even then the last

sentence of that paragraph also asks LPA's to "...allow a suitable degree of variety".

- 3.4 The Appellant argues that the robust front boundary enclosure, backed by hedging, has been well designed and make a positive contribution to the visual amenities of the area required under paragraph 130 of the NPPF. It is notable that strand c) of the paragraph says appropriate innovation should not be discouraged and the enclosure built will continue to make a clear distinction between the private and public realm, which is a key defining feature of Kingsway, helping to maintain its strong, distinctive sense of place, under strand d), with the piers to the access point framing and creating a psychological threshold to the property. No trees have been lost from the development carried out and the hedge will quickly grow and overtop the enclosure to soften its appearance. In short, the Appellant maintains what has been built does constitute good design and published SPD is not so prescriptive to allow reasonable design styles, which are far more robust than the failing timber fencing seen in **Document 3**.
- 3.5 The Council cites its Policy DM1 to justify the refusal. **Document 2** lists that Policy and its written justification. This Policy has a number of strands and sub-strands. Each will be looked at in turn, except for strands b., f, h and k which are not considered relevant to this Appeal.
- 3.6 In respect of strands a., d. e. and g. to DM1, arguments about the visual acceptability of the completed development have been set out above. Under sub-strand i, the Appellant says they have enhanced the visual amenities of the area and it is interesting to note that no neighbour wrote in to object to application H/22/92941. Under strand ii, the partial removal of the existing hedge – hardly a significant biodiversity impact - has been compensated for by the planting of new hedging, which will become established over time. The Appellant has every intention of maintaining the new planting to see it grow and merge in with the existing element of retained hedging. Strand iii, is not considered relevant as there are no heritage assets close to the site, which is not located in a Conservation Area.
- 3.7 In respect of strand c. to DM1, the assessment of the character of front boundary enclosures in this statement shows that the area is not homogenous in their design and that the Council has accepted similar development at 101 Kingsway. The scale and mass of what has been built does not appear excessive and pretty much matches the height of the pre-existing hedge. As to the accusation of 'prominent siting' in the reason for refusal, it is difficult to see where else the Appellant could have located what has been built. Again, the Appellant asserts they have enhanced the character of the area in terms of the quality and materiality of what has been built out.

- 3.8 In respect of strand i. to DM1, the access continues to be framed by two brick piers and the Appellant did not desire to place a gate, the front forecourt to the property being a reasonable 'defensible space.
- 3.9 In respect of strand j. to DM1, the new enclosure built will continue to screen any domestic bins which might be stored in the front forecourt, whilst still allowing them to be readily placed out on the pavement on refuse collection days.
- 3.10 The Council has not referred to the Chandlers Ford and Hiltingbury Character Assessment (2005), presumably because there is no part of section 3 (Kingsway) (extracts seen in **Document 2**) that prescribes the type of front boundary enclosures that will or will not be accepted (cf. paragraph 127 of the NPPF). Focus instead then, is given to the Council's 'Quality Places' SPD, the most relevant extracts of which are shown in **Document 2**.
- 3.11 On page 23, boundary structures are discussed, recommending "*well-detailed brick walls*" in the first paragraph. This is what the Appellant has built. The advice does go on to say in the second paragraph – "*the boundary treatment should be reflective of the general character of an area*". The Appellant saw what had been done at 101 Kingsway and the variety of other forms of boundary enclosure and considered what has been built to be appropriate and of a high standard of design and finish, enhancing the area. Whilst the SPD may go on to give an example of predominant character to be paid respect to, the SPD is now 11 years old and NPPF paragraph 128 does also talk about allowing "*...a suitable degree of variety*". Whilst the previous local plan may have had a specific policy for parts of the area, the Appeal property was never affected by that Policy, which in any case has not been taken forward into the new local plan. The height of what has been built does not exceed the pre-existing hedge height and save for the intervening middle piers, the lighter timber panelling, with gapping, does not appear so 'heavy' to have justified the refusal of planning permission.
- 3.12 Finally, one turns to the 2005 Chandlers Ford and Hiltingbury Character Assessment SPD to see whether this gives expression to the tests of Policy DM1 (previously Policy 60.BE in a previous emerging development plan). The Policy tests of DM1 have been discussed above. Paragraph 2 sets out that an objective for the document was to identify "*...those elements of the built environment which are particularly valued*". Whilst paragraph 20 does set out boundary treatments to be one element of the distinctive character, these are not further discussed or described in part 3 'Kingsway'. In terms of paragraphs 3, 5, 14, 22 and 25, the Appellant has had regard to the character of boundary treatments in the 'Kingsway'

area, evidenced in section 1 of this statement. With regards to paragraph 6 & 9's second bullet points, the Appellant has sought to '*...improve the unattractive*' in terms of the dilapidated timber fencing seen in **Document 3**. It is considered that local distinctiveness has been enhanced as advocated in paragraph 18 and argued in this statement. Being as no trees have been felled to carry out the development, the last bullet point of paragraph 9 is not applicable. One then turns to Part 3 of the Assessment 'Kingsway'. Here there is no specific development advice given as to replacement boundary structures, other than "*...new building work (be) ...compatible with the character of...adjacent properties and fits well into the overall street scene*". The Appellant has made their case above as to why they think that test has been met.

4.0 Conclusions

- 4.1 The Appellant has constructed a high quality new front boundary enclosure. There is a variety of such form in the 'Kingsway' sub-area of the Council's Character Area Assessment and guidance is not descriptive or prescriptive of what would or would not be acceptable, as now advised in the NPPF, which also points to variety being acceptable and indeed exists along Kingsway. A hedge is partly retained and partly newly planted to some height, so it will not take much time for this new hedge planting to establish, spread and overtop the new boundary enclosure, softening its appearance. Indeed, some elements of hedging have already begun to grow through the spaces between the horizontal timber slats
- 4.2 As such, the Inspector is respectfully requested to allow this Appeal. Being retrospective, it should not be necessary to impose any planning conditions.

LIST OF DOCUMENTS

- 1 – Decision H/22/92941 and related Officer delegated report refused on 20 July 2022
- 2 – Council adopted Policy and SPD considered relevant to this Appeal.
- 3 – Photographs of the Appeal property (September 2020) prior to the development having been carried out

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