

BFOHH – Bishopstoke, Fair Oak and Horton Heath Local Area Committee
Wednesday 27 September 2023.

Application Number: H/23/94919
Case Officer: Dorothy Hei-Tung-Hoh
Received Date: Wednesday 22 March 2023
Site Address: 32 BRADSHAW CLOSE, FAIR OAK, EASTLEIGH, SO50
7BS
Applicant: Steve Cole
Proposal: Retention of a new boundary fence and raising of new patio
(Amended H/22/93556)

Recommendation: Permit subject to conditions

CONDITIONS AND REASONS

- 1 The development hereby permitted shall be implemented in accordance with the following plans numbered: 004, 005 Rev F and B.C,006 Rev F

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 Within 3 months from the date of this permission, the existing boundary treatment along the southern side of the patio/terrace (i.e., the first 3 panels from the rear of the dwelling) shall be raised to a height of 1.8 metres above the level of the patio/terrace. The revised boundary treatment shall match as closely as possible, in type, colour and texture that used on the remainder of the southern boundary fence and permanently retained for the lifetime of the development.

Reason: To protect the amenity and privacy of the neighbouring property and ensure a satisfactory visual relationship.

Note to Applicant: This decision is made in accordance with Section 73A of the Town and Country Planning Act 1990 (as amended), which allows for the granting of planning permission for development that has been commenced and/or been completed.

Note to Applicant: In accordance with paragraph 38 of the National Planning Policy Framework (July 2021), Eastleigh Borough Council takes a positive approach to the handling of development proposals so as to achieve, whenever possible, a positive outcome and to ensure all proposals are dealt with in a timely manner.

Report:

1. This application has been referred to Committee by Councillor Steven Broomfield, Councillor Michelle Marsh, Councillor Nicholas Couldrey, and Councillor Louise Parker-Jones.

Updates:

2. During the most recent committee meeting held on July 12, 2023, a decision was made to defer the application. The committee members expressed a requirement for additional information and clarifications concerning the precise dimensions of each corner of the proposed raised patio. Furthermore, there were inquiries made regarding the dimensions of the previous patio and the proposed alterations to the common boundary height. Within the course of discussions, a proposal was introduced to potentially modify the size of the raised patio. It was suggested to reduce the size of the patio and introduce a set of steps that would descend directly from the door of the single-storey side extension.
3. Comprehensive on-site measurements have been conducted. The ground level exhibits non-uniformity, featuring a gradual slope from north to south and from east to west. Consequently, the raised patio displays varying elevations above the ground level, ranging between 9cm and 86cm. Regarding its dimensions, the raised patio spans the entire width of the application site, which measures approximately 13.3m. Along the southern boundary, its length extends to approximately 5.0m, while along the northern boundary, it covers a length of approximately 8.6m.
4. Based on the analysis of online site photographs, it was observed that the application site had a pre-existing raised patio. The previous patio occupied only half of the site's width and featured a depth that was approximately equivalent to the height of the concrete kick boards.
5. From the perspective of the application site, the existing fence height of the first 3 panels from the rear of the dwelling (measured from the patio level to the top of the fence) currently stands at 1.5m. Conversely, when viewed from the neighbour's side, the fence height, from ground level to the top, is currently 2m. Upon implementing the proposed elevation for these first 3 panels, raising them to a height of 1.8m above the patio level, the fence's height will consequently be increased to 2.3m when observed from the neighbour's side.
6. Following the previous committee meeting, the suggestions raised by the Committee to alter the patio size and location of steps was conveyed to the applicant. Nevertheless, the applicant expressed their reluctance to undertake this modification. Consequently, the previous recommendations and conditions remain unaltered.

Site Characteristics and Character of the Locality

7. The application site comprises a two-storey detached dwelling which is finished in brickwork, with white render and green tile hanging at the frontage.
8. The dwelling has been previously extended to the north (two-storey side extension) and the south (single storey side extension). There is also a gravel parking area to the front (east) with the main private amenity space to the rear (west).
9. The site frontage is fairly open with no boundary treatment. The remaining boundaries are marked by low brick wall and close boarded fencing which follow the topography of the application site. The northern boundary treatment originally comprises of concrete block screen wall which separates the site from Mortimers Lane, but now has been changed to a new boundary treatment (which is the subject of this planning application).
10. The application property is located at the start of a cul-de-sac development of similar style properties, particularly those on the southwest side of Bradshaw Close. It also sits on a corner plot at the junction of Bradshaw Close and Mortimers Lane. The site itself slopes from north to south and from east to west, and as such there are some substantial differences in levels across the site.
11. The wider surrounding area is predominantly residential in nature and made up of 1970s to 1980s detached development on a series of multi-headed cul-de-sacs on the eastern edge of Fair Oak.

Description of Application

12. The application seeks approval for the retention of a raised patio with an attached staircase. This structure is situated at the rear of the property. Notably, due to the uneven terrain of the land, the depth of the patio varies at each corner when measured from the ground level. Specifically, at the top left corner, the depth is 9cm, while at the bottom left corner, it measures 33cm. The top right corner boasts a depth of 43cm, and the bottom right corner reaches a depth of 86cm. In terms of its width, the raised patio spans the entire width of the application site, measuring approximately 13.3m. In terms of length, it extends approximately 5.0m along the southern boundary and approximately 8.6m along the northern boundary.
13. The proposal also includes the retention of a new boundary fence which is of close boarded vertical wooden panels and was erected to replace the former concrete block screen wall. The replacement boundary treatment is located to the north and the west of the application site, enclosing the rear garden. Due to the change in ground levels, it is varied in height and at a height between 1.7m to 2.0m, so the top edge of the fencing is stepped instead of a continuous line.

14. The current application is a resubmission following the withdrawal of the original application H/22/93556 that was deemed to have an unacceptable impact on the amenity of the occupiers of 31 Bradshaw Close in terms of overlooking and loss of privacy. In order to seek to address these issues, the applicant has revised the proposals by elevating the first three fence panels from the rear of the dwelling to a height of 1.8m above the level of the raised patio.

Relevant Planning History

- Z/19396/000/00 - two storey side extension - Permit - 06/04/1979
- H/21/91552 - Demolition of garage to create single storey side extension - Permit - 15/11/2021
- H/22/93556 - Retention of a new boundary fence and raising of new patio (Retrospective Application) - Withdrawn by Applicant - 24/11/2022

Representations Received

15. One objection letter was received. The representee raised the following issues and concerns.

- Overlooking
- Loss of privacy
- Loss of outlook
- Inaccuracies and omissions of the submitted drawings

Consultation Responses

16. Fair Oak & Horton Heath Parish Council – No objection
17. Southern Water – It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. Southern Water requires a formal application for any new connection to the public foul sewer to be made by the applicant or developer.

Policy Context and Designations Applicable to Site

- Within Established Residential Area
- Within Built-up Area Boundary

Development Plan Local Plan Policies

Submitted Eastleigh Borough Local Plan 2016-2036

The most relevant policies are:

Strategic policies:

- S1 (Sustainable Development);
- S2 (Promotion of New Development);

Development Management policies:

- DM1 (General Development Criteria);
- DM2 (Environmentally Sustainable Development);
- DM11 (Nature Conservation);
- DM14 (Car Parking);

Supplementary Planning Documents

- Quality Places (November 2011);
- Residential Parking Standards (January 2009);
- Character Area Appraisal for Bishopstoke, Fair Oak and Horton Heath (January 2008)

National Planning Policy Framework

18. At national level, the National Planning Policy Framework (the 'NPPF' or the 'Framework') is a material consideration of significant weight in the determination of planning applications. The National Planning Policy Framework (the 'NPPF' or the 'Framework') states that (as required by statute) applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and sets out a general presumption in favour of sustainable development.

National Planning Practice Guidance

19. Where material, the Planning Practice Guidance which supports the provisions and policies of the NPPF should be afforded weight in the consideration and determination of planning applications.

Assessment of Proposal: Development Plan and / or Legislative Background

20. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require a Local Planning Authority determining an application to do so in accordance with the Development Plan unless material considerations indicate otherwise. Plan comprises the Policies of the Eastleigh Borough Local Plan Review 2016-2036 and the Hampshire Minerals and Waste Plan 2013 (which is not applicable in this case). The NPPF and the Planning Practice Guidance constitute material considerations of significant weight.

Principle and Policy

21. The application site lies within an established residential area where the basic principle of development is acceptable, with any formal approval being based upon the exact nature, design, and impact of that proposed being considered

acceptable and in accordance with the relevant policies within the adopted local plan and supplementary planning guidance.

22. Section 73A of the Town and Country Planning Act provides for retrospective planning applications to be made in respect of development which has been carried out without permission, and for applications for planning permission to authorise development which has been carried out without complying with some planning condition to which it was subject. It is not an offence to carry out works without the required planning permission unless a Notice has been served on the unauthorised development because it is expedient to do so. When unauthorised development is carried out the Council can and has in this instance request that the persons submit a retrospective planning application to regularise the works.

Layout, design, and impact upon the character of the area

23. Policy DM1 of the Eastleigh Borough Local Plan (2016-2036) stipulates that all new development should respect the character and appearance of urban areas, take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible in terms of mass, scale, layout density, design, and siting.
24. As an ancillary structure to the dwellinghouse, the raised patio is of considerable size. Nonetheless, its presence does not lead to an overdevelopment of the site, as the application site maintains an ample amenity space for the occupiers of the property.
25. Due to the topographical features of the application site, the new raised patio is considered to be a harmonious addition to the host property. It facilitates level access to the rear portion of the dwelling and enhances the overall usability of the garden area.
26. The raised patio is located to the rear of the property, so it is not visible from or have any significant impact upon the street scene. The additional width of the patio is unlikely to be perceived from public viewpoints and is therefore have no impact on the character of the area.
27. Due to the corner location of the application property and there are bus-stops located along this stretch of Mortimers Lane, the new fencing in this location is visible from public vantage points. However, the boundary treatment in the area is varied and it is accepted that there is sufficient spacing between the replacement fencing and the highway to soften its visual impact, offering a more open aspect to the road. In addition to this, the new boundary treatment is considered a typical form of boundary and therefore it does not draw attention and can blend in well with the surroundings, whilst providing a robust level of security to the property.
28. The application also proposes replacing the first three fence panels from the rear of the dwelling that runs alongside the raised patio. Whilst the

resulting fence is higher than would otherwise be permitted under the GDPO, it is not considered to result in a form or mass that would appear overly dominant or overbearing. Should permission be approved, it would be completed with the matching material and colour. In terms of the wider area there are numerous examples within the surrounding area of side boundary fencing of a stepped appearance albeit generally lower in height. However, this is not considered visually detrimental to the street scene.

Residential Amenity

29. Policy DM1 of the Eastleigh Borough Local Plan (2016-2036) amongst other matters, stipulate that all new development should not have an unacceptable impact upon residential amenities of both new and existing residents.
30. The highest part of the new boundary fence is higher than most in the area, but it is considered that the 2m high fencing is appropriately sited and is of a suitably robust nature for a boundary treatment adjoining or in close proximity to a public footpath. It does provide the applicant greater privacy and security. In view of the distance away from the neighbouring properties, the new boundary fence is not considered to significantly affect the neighbouring residential amenity in terms of loss of light, loss of outlook or overshadowing and does not create an impact that is significantly different from the former boundary.
31. While the new raised patio is larger and positioned closer to the shared boundary in comparison to the previous patio, it is not expected to result in any adverse loss of privacy or persistent overlooking of the neighbouring property (31 Bradshaw Close). Nevertheless, it has been brought to our attention that the current height of the first 3 panels from the rear of the dwelling, measured from the patio level to the top, stands at only 1.5m. As such, this has raised privacy concerns for No.31. To address these concerns, it is recommended that a condition be imposed, mandating that the first 3 panels from the rear of the dwelling be elevated to a height of 1.8m above the level of the patio. This additional 30cm is deemed sufficient to minimise the possibility of unintended observation and provide a greater sense of privacy for the neighbour. Once this fence height adjustment is implemented, it will appear as 2.3m when viewed from the neighbour's side. This slight increase in height is not anticipated to substantially differ from the existing fence height. Furthermore, it is noted that the shared boundary is situated on the northern side of No.31. Consequently, the fence's elevation would not lead to any significant loss of light, loss of outlook, or overshadowing for this neighbour.

Access, Parking and Transport Matters

32. Policy DM14 of the Eastleigh Borough Local Plan (2016-2036) requires residential development to provide off-highway parking which is adequate in terms of highway safety/traffic management.

33. This application relates to the retention of boundary treatment and raised patio. The proposal does not impact upon the current parking provisions, and therefore does not have an adverse impact in this regard.
34. The replacement boundary treatment is not considered to be the detriment of highway safety as it does not alter visibility and it remains possible for vehicles to fully exit the highway.

Trees and landscaping

35. The site does not contain any trees offered protection by a tree preservation order. Furthermore, the proposal has been deemed not to be in conflict with any trees or landscape features of particular amenity to the area. There are no likely significant impacts on the SPA.

Sustainability Measures and Climate Change:

36. In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.
37. The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and adopted local plan policy do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and local plan policy. The need to support the economy is part of the Strategic Environmental Assessment for the adopted local plan, as is an assessment of climate impacts.
38. The NPPF, Policies S1, DM2 and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use. When considering the impact of climate change, the proposed development is expected to be resilient to the potential effects of climate change.

Equalities Implications:

39. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-

- A public authority must, in the exercise of its functions, have due regard to the need to:
 - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

40. When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications.

Conclusion

41. The developments are not considered to adversely affect the character of the area or adjacent residential amenity. The additional height of the first 3 panels from the rear of the dwelling would prevent any overlooking onto the neighbouring property (31 Bradshaw Close) arising from the raised patio.

42. The proposal is considered to accord with the relevant policies of the Eastleigh Borough Local Plan (2016-2036), and to guidance contained in the Councils adopted SPD and to the National Planning Policy Framework 2021 (the Framework).

H/23/94919. 32 Bradshaw Close



EASTLEIGH
BOROUGH COUNCIL



Address: 32 Bradshaw Close
Fair Oak

Date: 04/07/2023

Scale: 1:1250