Expiry Date - 22/01/2025

Development Control – Delegated Officer Report

Application Number: AWDM/1499/24 Recommendation – APPROVE

Site: 5 Teign Walk Worthing West Sussex BN13 3LR

Proposal: Proposed change of use of verge to the east (alongside footpath in Colne Close) to become residential garden space enclosed by a 1.8 metre high close boarded timber fence.

Date of site visit: 08.01.2025

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings

The application relates to a mid-to-late C20, large, detached estate house fronting Teign Walk. The latter comprises a public footpath, running east-west roughly parallel to the southern carriageway of the A27 (Arundel Road) and separated from it by a wide verge planted with a tall conifer trees. The latter provide a dense, visual screen between the trunk road and the houses in Teign Walk. There are no vehicular or pedestrian links between Teign Walk and the A27. Teign Walk is connected to the housing estate to the south by pedestrian footpaths sited at intervals along its length. Each links to the head of a cul-de-sac, forming part of a series that run perpendicular to Teign Walk. These connecting footpaths lie within well-spaced gaps between the houses.

A footpath lies in the highway land between Nos 4 and 5 Teign Walk. Part of this highway land to the west side of the footpath has been incorporated into the fenced side garden of No.5, although a grassed verge remains closest to the path. [Google Streetview imagery indicates that the part of the highway land enclosed into the existing side garden of No.5 has existed for many years, at least since 2009.]

Sited off the western spur of the turning head in Colne Close is a block of 3no garages, one of which provides off-street parking for No.5.

The dwellings in the wider estate are characterised by open-plan frontages.

Proposal

Permission is sought to incorporate the highway land to the west of the footpath into the curtilage of No.5, and to enclose a 2.12m wide section of the existing grassed verge into the side garden, marked by 1.8m high close-boarded fencing. The additional fenced area will follow the alignment of the existing fencing around the side garden, adjoining the chamfered kerb line to

the south and retaining an open plan area to the north. A narrow strip 300m wide will be retained between the new fence line and the edge of the footpath.

The submitted plans show the formation of a new vehicle access in the SE corner of the existing plot. This may (or may not), constitute 'permitted development', but does not form part of the consideration of this application.

Relevant Planning History:

887/74 Realignment of side boundary wall. Permitted Sept 1974.

WB/00/00305/FULL Two-storey side extension permitted May 2000.

Consultations:

WSCC: The Local Highway Authority has raised no objection in principle, commenting:-

"This application seeks the proposed change of use of verge to the east (alongside footpath in Colne Close) to become residential garden space enclosed by a 1.8 metre high close boarded timber fence.

The applicant is advised that the land proposed to be incorporated is currently maintained as public highway. For this land to be incorporated into the site, the highway rights need to be formally removed by way of a Stopping-Up Order. This is controlled by Section 247 of the Town and Country Planning Act and would be subject to a separate process administered by the Department for Transport's National Casework Team. The Highway Authority along with other statutory undertakers and interested parties would be consultees in this process.

In regards to the adjacent footpath, a minimum width of 2m would be required to be retained, to ensure sufficient space for two pedestrians to pass one another. A measure of the plans would suggest that a footway width of 2m is to be retained, although the LPA are requested to confirm this.

A new replacement dropped kerb is proposed to facilitate access to the site. From inspection of WSCC mapping, there does not appear to be any visibility issues with the proposed point of access on to the maintained highway. The proposed access works, including closure of the existing, would be subject to a licence obtained through the local WSCC Highway Area Office and constructed to a specification agreed with the local WSCC Highway Area Engineer.

In summary, the LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 116), and that there are no transport grounds to resist the proposal.

If the LPA are minded to approve the application, the following informatives should be applied:

Stopping Up Order
The applicant is advised that the existing public highway to be incorporated into the development must be the subject of a Stopping Up Order. This process must be successfully completed prior to any highway land being enclosed within the development. The applicant should contact the Department for Transport's National Transport Casework Team in order to commence this process:
National Transport Casework Team
Tyneside House
Skinnerburn Road
Newcastle Business Park
Newcastle upon Tyne
NE4 7AR
https://www.gov.uk/government/publications/stopping-up-and-diversion-of-highways

Vehicle Crossover – Minor Highway Works
The applicant is advised that in addition to obtaining planning permission that they must also obtain formal approval from the highway authority to carry out the site access works on the public highway. The granting of planning permission does not guarantee that a vehicle crossover licence shall be granted because the highway license process considers wider factors than are considered by the Highway Authority at planning stage. Additional information about the licence application process can be found at the following web page:
http://www.westsussex.gov.uk/roads-and-travel/highway-licences/dropped-kerbs-orvehicle-crossovers-for-driveways-licence/

Officer Comment

It was confirmed to WSCC that the existing footpath is 1.85m measured on-site. The LHA has raised no objection to this width on the basis that 1.85m is sufficient to enable a wheelchair user and walker to pass one another.

Representations: None received.

Relevant Planning Policies

Worthing Local Plan policies (WBC 2023): SP1, DM5
National Planning Policy Framework (MHCLG 2024)
National Planning Practice Guidance
SPG 'Extending or Altering Your Home' (WBC)

Planning Assessment

All of the footpath links between Teign Walk and the roads to the south lie within a wide highway margin. Possibly the reason was to safeguard a

potential future opportunity to extend the adjacent cul-de-sacs northward to link directly to the A27. It is highly unlikely that such works would now ever be considered desirable, or even possible from a highway safety point of view.

In this case the highway land between No. 4 and 5 Teign Walk has already been narrowed by the enclosure of the existing side garden at No.5. It is unclear whether the formal stopping-up procedure was followed in respect of it. Although it has been enclosed for many years (possibly since the 1970s as the Planning History record indicates), Council records also show part of the enclosed site garden and the open verge beyond as highway land.

The Local Highway Authority has raised no objection in principle to incorporating the highway land into the curtilage of No.5 providing the correct 'stopping up' procedure is followed.

Enlarging the side garden and re-positioning the fencing closer to the edge of the paved footpath for a length of approximately 12 metres will result in a heightened sense of enclosure along this part. However the north part of the enlarged garden area will remain 'open-plan'. There is also a narrow grassed strip of garden on the east side of the footpath within the curtilage of No.4. Consequently the gap between the fenced gardens will be approximately 3m wide overall. There is a streetlight located at the southern end of the footpath. It is not considered the enlargement of the enclosed side garden at No.5 will detract from the safety or amenity of the footpath users.

It is not considered that the enlargement of the fenced side garden at No.5 would be out of keeping with the other 'gaps' along Teign Walk. Indeed, it is apparent that similar gaps to the side of Nos 15, 16 and 20 have been similarly enclosed by fencing, albeit without any record of planning permission.

Recommendation

APPROVE subject to Conditions:-

1. Drawing Numbers
2. Standard time limit
3. Notwithstanding the provisions of the GPDO the no fences, walls or other means of enclosure to be erected on the area of open garden to the north or east of the area of garden to be enclosed by fencing shown on the approved plan A.101.

Informative

- The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- Stopping-up procedure
- No consent granted by this permission for the proposed vehicle access shown on the submitted plans.

Is recommendation contrary to letter(s) of representation? N

Case Officer: Jo Morin Date: 20.01.2025

Authorised by: Peter Barnett Date: 20 January 2025