

**Planning Committee:** 16 July 2019

**Item Number:** 8

**Application No:** [W 19 / 0404](#)

**Town/Parish Council:** Kenilworth

**Case Officer:** Ragu Sittambalam

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**Registration Date:** 12/03/19

**Expiry Date:** 07/05/19

**Wootton Grange Farm House, Warwick Road, Kenilworth, CV8 1FE**

Replacement of existing 1.2 metre high post and rail fence with 2 metre high acoustic timber fence along front boundary FOR Mr & Mrs Kane

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This application is being presented to Committee as the Town Council supports the application and it is recommended for refusal.

**RECOMMENDATION**

Planning Committee are recommended to REFUSE planning permission, for the reasons set out at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The applicant seeks to erect a timber fence along the front boundary. Planning permission was refused for a 2.2m fence in March 2019. This application proposes a reduction in the height of the fence, to 2m.

**THE SITE AND ITS LOCATION**

Wootton Grange Farm House is a Grade II Listed Building whose former outbuildings to the rear have been converted to separate dwellings. The application property has an elongated plot fronting Warwick Road which is one of the approaches into Kenilworth Town from Leek Wootton Village. The frontage is marked by a tall mature hedge with a narrow verge which screens the property from views from the east. The property shares a private access point off the main Warwick Road, and there is a large triple-bay garage block midway along its curtilage behind the house, which is accessed off a drive running past the front of the house. The site is washed over by Green Belt.

**PLANNING HISTORY**

W/19/0405/LB - Replacement of existing 1.2 metre high post and rail fence with 2 metre high acoustic timber fence along front boundary - Granted 17/05/2019

W/18/2306 - Erection of 2.2m high fence along front boundary (subject to variance in ground levels) - Refused 15/02/2019.

W/18/2307/LB - Construction of a 2.3 metre high brick wall on the front boundary adjacent Warwick Road - Granted 15/02/2019.

W/17/2052 - Construction of a 2.3 metre high brick wall on the front boundary adjacent Warwick Road - Withdrawn 18/12/2017.

W/17/2053/LB - Construction of a 2.3 metre high brick wall on the front boundary adjacent Warwick Road - Withdrawn 18/12/2017.

### **RELEVANT POLICIES**

- National Planning Policy Framework
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- DS18 - Green Belt (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)
- Neighbourhood Plan
- Kenilworth Neighbourhood Plan

### **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** Members unanimously SUPPORTED this proposal. They fully recognised the adverse impact of the new development opposite and its effect on the amenity of this property. Members wished to specifically point out that they objected to the design and location of the access road to the new development and were sympathetic to the clear effect traffic will have on this property. Finally, Members noted that a previous application granted listed building consent but was refused on planning grounds. They were surprised and could not understand this decision.

**WCC Landscape:** The current 1.2 m high post and rail fence is visible from Warwick Road in part before it cuts through the roadside hedge. The proposed 2m high acoustic fence is to be set back from the existing fence line to help aid concealment. Replacement native hedge planting will be necessary to help achieve this, particularly since the proposal seeks the removal of three mature hedgerow trees. We will need to know details of the proposed plant species and their spacings. Although three mature hedgerow trees have been identified for removal the applicant has not provided a tree survey detailing the height, spread and condition of these trees and the root protection areas for those trees to be retained. Tree T1's canopy is within T2's therefore there is a risk of damage / stability to the remaining tree if T1 is removed. The trunk of garden tree T5 is shown within the proposed fence line; will this tree be incorporated within the fence line or removed? The acoustic fence will be partially screened by the garden wall. However, this will change the character and appearance of the vehicular entrance to the associated properties. I suggest planting climbing plants along the acoustic fence to soften the appearance and help it to appear as part of the garden. These plants can be easily maintained since the garden space will be accessible via a gate.

**WCC Ecology:** Objects on the same basis as for planning application ref.no. W/18/2306, which recommended preliminary ground level tree roost assessment and amphibian, reptile and badger notes.

**Public response:** Three representations have been received from neighbours in support of the proposal on the grounds that the fence will provide privacy and afford protection from existing road noise and from additional road noise generated by the residential development opposite. Also, that it is a well-considered and sympathetic solution and will protect the setting of the listed building. It is not inappropriate development in the Green Belt.

## **ASSESSMENT**

Whether the proposal constitutes appropriate development in the Green Belt and, if not, whether there are any very special circumstances which would outweigh the harm by reason of inappropriateness and any other harm identified

The National Planning Policy Framework (NPPF) states that the essential characteristics of the Green Belt are openness and permanence. It sets out that inappropriate development within the Green Belt is harmful by definition. Paragraph 133 of the NPPF states that the Government attaches great importance to Green Belts and the fundamental aim of Green belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of green belts are their openness and their permanence.

Paragraph 145 of the NPPF states that new buildings within the Green Belt should be considered as inappropriate development. Exceptions to inappropriate development in the Green Belt are listed. One such exception is the replacement of a building provided the replacement is not materially larger.

The proposed boundary fence would fall within the definition of a building. As stated above, any new buildings within the Green Belt are considered to be inappropriate development and harmful by definition. The proposed boundary fence would replace an existing low level post and rail fence, which essentially is a replacement structure, and therefore would meet one of the exceptions to paragraph 145 of the NPPF, so long as the new structure is *not materially larger than the one it replaces*, which is discussed below.

The proposed development will be significantly taller and more imposing than the existing low and open post and rail fence, which allows views into the site. Therefore the proposed development will provide a structure which will be materially larger and will also adversely impact on openness. Consequently the proposals represent inappropriate development within the Green Belt.

It is therefore necessary to consider whether any very special circumstances exist which would outweigh the conflict with Green Belt policy and the harm caused to the Green Belt identified above. The agent has provided additional detailed justifications in the Design & Access Statement. This includes a need to mitigate the adverse impacts of the new housing development opposite the site, including dealing with the impacts of increased traffic noise. The applicant also refers to the security benefits of the proposals and the fact that there would be a

lack of visual harm. Finally the applicant considers the proposals to be compatible with the purposes of the Green Belt as set out in the NPPF.

Having considered these matters carefully, it is not considered that they amount to the very special circumstances required to outweigh the harm to the Green Belt, a matter to which significant weight must be attached. In reaching this conclusion it is noted that the housing development opposite was considered to have an acceptable impact on surrounding dwellings, without any requirement for noise or other similar mitigation measures. Therefore, the proposal would be contrary to Warwick District Local Plan Policy DS18 and the NPPF.

#### Design and impact on character and appearance of the rural area

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions. Furthermore, Warwick District Council's Local Plan 2011 - 2026 Policy BE1 reinforces the importance of good design stipulated by the NPPF as it requires all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan calls for development to be constructed using appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area.

The application property lies within a large plot of land which lies immediately to the front and side of the property. The site currently has a clearly rural character due to the bordering fields, roadside hedges and trees on both sides of the road. The existing low level post and rail fence is considered to be in keeping with the context of the site.

The proposed development is considered to have a significant detrimental impact on the visual amenity and rural appearance of this stretch of road, introducing a 'suburban' feature which would impact on the openness of the site and detract from the rural character and appearance of the area, which would be compounded by the length of the fence proposed. Furthermore, the proposal is in a visually prominent location adjacent to the main entrance from Leek Wootton Village into Kenilworth Town. The existing post and rail fence is low lying and considered appropriate by nature of its design and height which does not significantly block views and retains the openness and the rural character of this area and is a softer form of boundary treatment compared to tall a close boarded timber fence. The new fence is likely to be even more apparent in the winter months when trees are not in leaf.

The proposed development would fail to harmonise with the rural setting and is therefore considered to conflict with Local Plan Policy BE1, NPPF and The Kenilworth Town Neighbourhood Plan.

#### Impact on the Heritage Assets (setting of Listed Building)

Section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area. Section 66 of the same Act imposes a duty to have special regard to the desirability of preserving a listed building or its setting when considering whether to grant a planning permission which affects a listed building or its setting.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.

Warwick District Local Plan Policy HE1 states that consent will not be granted to alter or extend a Listed Building where those works will adversely affect its special architectural or historic interest, integrity or setting.

The proposed front boundary fence is considered to have no significant impact on the setting of the listed building. Therefore the associated application for listed building consent has been approved, since the only consideration for that application was the impact on the listed building.

The Conservation Officer has asked for large scale details of the fence, clearly indicating the height and width of individual panels and posts. He also queries what the finished colour will be, both of which could be secured by condition.

#### Impact on residential amenity

The proposed boundary treatment would not result in material harm to the amenity of neighbouring properties in terms of loss of light or outlook.

With regard to the impact of the residential development opposite on the amenity of the application property, the applicant's agent has pointed out that the EHO officer recommended the following condition for that development:

*'The development hereby permitted shall not commence until a scheme of mitigation including detailed arrangements to protect residents of the development from excessive traffic noise entering habitable rooms and the provision of quiet garden areas shielded from road noise shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and shall be retained thereafter'.*

The applicant's agent wishes officers to consider the reasonableness of the new development being entitled to noise mitigation measures, whilst the existing occupiers are not. However, it is not expected that the new development opposite will be required to provide any form of acoustic fence on the Warwick Road frontage.

## **CONCLUSION**

Despite the reduction in proposed height, from 2.2m to 2m, it remains the view of Officers that the proposed boundary treatment represents inappropriate development within the Green Belt, which is harmful by definition and by reason of harm to openness, contrary to paragraph 133 of the NPPF. There have been no very special circumstances presented which are considered to outweigh this harm, including the residential development approved opposite. Furthermore, the proposed boundary treatment is considered to be harmful to the visual amenity and rural character of the area. The development therefore conflicts with Local Plan Policies BE1 and DS18.

## **REFUSAL REASONS**

- 1 In the opinion of the Local Planning Authority, the proposed development is materially larger than the existing building and therefore constitutes inappropriate development in the Green Belt which is harmful by definition and by reason of harm to openness. No very special circumstances are considered to exist which outweigh the harm identified.

The proposed development is therefore contrary to the National Policy Framework and to Policy DS18 of the Warwick District Local Plan 2011-2029.

- 2 The proposal relates to a detached Grade II Listed Building situated on the outskirts of Leek Wootton Village and Kenilworth Town which is washed over by Green Belt and where the character of the streetscene is predominantly defined by an open character where boundary treatments generally comprise of dense hedging and trees and relatively low post and rail timber fences.

In the opinion of the Local Planning Authority, the proposed 2.2m high close boarded timber fence positioned in a prominent position on the boundary with the highway would be a wholly unsympathetic form of development which would result in an alien and incongruous urbanising feature within the streetscene which would be harmful to the character and appearance of this rural locality. It is considered that both in itself and in the precedent it would create for the submission of other similar applications (which will thereby be more difficult to resist) it would result in the progressive erosion of the existing attractive open, landscaped and rural character and appearance of this road.

The proposed development is therefore contrary to the National Policy Framework and to Policy BE1 of the Warwick District Local Plan 2011-2029.

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