

Planning Committee: 07 November 2017

Item Number: 5

Application No: [W 17 / 1432](#)

Town/Parish Council: Warwick
Case Officer: Lucy Hammond
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Registration Date: 04/09/17
Expiry Date: 30/10/17

Land adjacent to 1 Beaurevoir Way, Warwick, CV34 4NY

Retrospective application for the change of use of land from open space to form part of private domestic garden land, associated with No.1 Beaurevoir Way, including new fencing to match existing. FOR Mrs Chambers

This application is being presented to Committee due to the number of objections received.

RECOMMENDATION

That planning permission be granted subject to the conditions set out at the end of this report.

DETAILS OF THE DEVELOPMENT

Retrospective permission is sought for the change of use of an area of land adjacent to No.1 Beaurevoir Way. The area in question was originally planted / scrub land adjacent to the boundary with Network Rail owned land to the south and permission is sought for its retrospective change to domestic garden associated with the host property. The development also includes the boundary treatments that have been erected; replacement fencing along the southern boundary and new fencing and an access gate around the northern boundary adjoining a shared parking area.

THE SITE AND ITS LOCATION

The host property, No.1 Beaurevoir Way, is an end of terraced residential property accessed to the front by a footpath only, while vehicular access is gained from the rear via Campriano Drive, the main access road through the development which is taken off The Emscote Road to the south. The area of land subject to the retrospective application sits to the south of the property, adjacent its side boundary and extends up to the shared boundary with Network Rail owned land to the south and the railway line beyond.

The area of land extends to the west, beyond the depth of the property to include an area of land to the rear of the host property which was originally scrub land that terminated the car parking area to the north which provides parking for the properties immediately surrounding it. Access is obtained into this parking

area from Campriano Drive to the north which provides the only public views towards the area of land subject to this application.

The host dwelling and the area of land in question forms part of the wider Emscote Lawns development (approved under ref. W/99/1324) which was for the erection of 160 dwellings and the conversion of the Grade II listed Emscote Lawns building. The estate is therefore within the setting of the Grade II listed building although the application site in this instance is some 195 metres from the nearest edge of the listed building, with a number of properties, gardens, parking areas and footpaths separating the two sites.

The area of the estate in which the site is located is subject to permitted development right restrictions, specifically Part 2 related to fences, walls and other means of enclosure and there is a group TPO (WDC8) covering the area of land to the south which extends to the west and runs alongside the boundary with the railway buffer.

PLANNING HISTORY

No relevant history

RELEVANT POLICIES

- The National Planning Policy Framework

The Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- HS1 - Healthy, Safe and Inclusive Communities (Warwick District Local Plan 2011-2029)
- HS1 - Protecting Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- NE4 - Landscape (Warwick District Local Plan 2011-2029)

Guidance Documents

- Residential Design Guide (Supplementary Planning Guidance - April 2008)

SUMMARY OF REPRESENTATIONS

Warwick Town Council: No objection

Network Rail: No objection, but recommendations made for additional information (secured by condition)

WCC Ecology: Made comments on the application; the area of land acts as a buffer to the adjacent ecosite and appears to contain trees / other scrub, some of which may have formed part of the original development scheme. If the space became part of a residential curtilage, trees etc could be removed potentially resulting in a biodiversity loss and/or protected species could be impacted.

Public Response:

7 letters of objection received raising the following concerns:

- the design is not in keeping with the area
- the area is important for ecological features
- this could set a precedent for other areas of the estate
- the fence is visually inappropriate
- the development impacts on the open space originally intended as part of the original development
- concern about loss of trees and open space
- boundary treatments use inappropriate materials which are not in keeping with elsewhere on the estate
- the development fails to accord with policies BE1, HS2, NE1, NE2, NE3, NE4 and HE1 of the Local Plan

Other non-material considerations have been raised which are summarised below:-

- issues have been raised about land ownership as well as details of agreements between the original developers and the site maintenance contractors
- there has been a general lack of consultation from the applicant with neighbours about the development
- comments have been made / concern expressed, about the original purchase of this area of land by the applicant

2 letters of support received for the following reasons:

- concerns expressed by other neighbours are shared, however, this area of land can be differentiated from other areas of the estate
- it forms a natural extension to the parking area at the back of the host property and its neighbours
- it is not directly overlooked by anyone besides the host property and is only visible from the entrance to the parking area from Campriano Drive
- before the area was cleared it posed a security risk to properties in the vicinity and was a regular dumping ground for fly tipping and other waste
- the fencing now adds security and minimises the risk of antisocial behaviour
- the fence is in keeping with the remaining fence along the Network Rail land boundary
- no protected trees have been damaged
- the use of the space as garden and additional parking alleviates parking problems elsewhere on the estate

the area is enhanced by this change of use

ASSESSMENT

The main issues relevant to the consideration of this application are as follows:

- Impact on the character and appearance of the area
- Impact on the living conditions of nearby dwellings
- Impact on the setting of the heritage asset(s)
- Car parking and highway safety
- Ecological impact

Impact on the character and appearance of the area

When this development was originally planned and approved, part of the design rationale, which is commonly found across developments of this scale, was to ensure there were key areas of open space and amenity land placed throughout the estate, intended to make a positive contribution to the landscape and visual amenity of the overall development. Part of such a scheme normally includes the removal, by condition, of Part 2 Permitted Development rights, prohibiting the erection of fences, walls and any other means of enclosure. Such a condition was imposed on this development to retain the intrinsic open character of the estate, which is why permission is now required, not only for the change of use of land, but also for the boundary treatments which have been erected around the perimeter of the site.

The area of land subject to this application is located to the side of the host dwelling, No. 1 Beaurevoir Way. It sits between the dwelling to the north side and the railway buffer and perimeter fencing to the south. Its position in the context of the wider development is such that it is within the southernmost corner of the development, immediately adjacent the railway line to the south and the footpath (Beaurevoir Way) to the east. Its position in this corner therefore means that the vast majority of the land is not visible from any part of the main road through the development (Campriano Drive) and as such does not make as valuable a contribution to the public realm in the same way that other areas of open space and/or amenity land do elsewhere throughout the estate.

The main vantage points from which the area of land in question is visible are, in the first instance, Beaurevoir Way to the east; this is a footpath for pedestrians and cyclists and is not useable by motor vehicles. In the second instance, Campriano Drive, which enters the development off Emscote Road and moves west through the development, passes by the entry point to a parking area that sits to the rear (west) of the application dwelling and its adjoining neighbours to the north. This area would, in reality, only be accessed by the occupiers of the houses and flats whose parking provision is located in this area. It is not a thoroughfare because it terminates at the edge of the application site where the fence has already been erected by the applicant.

The northern edge of the application site is situated some 40m away from the carriageway edge of Campriano Drive and is positioned in such a way that only limited and partial views of the application site will be facilitated from the estate road. Officers are therefore of the opinion, that in this particular instance, there

are a set of very unique circumstances, pertinent to this application site only, which cumulatively amount to the area of land in question, on this occasion, making a very limited contribution to the intrinsic open character that flows through the estate as a whole.

It is acknowledged that prior to the retrospective works being carried out, the area forming the termination of the parking area was essentially scrub land. Its original landscape and visual amenity contribution is therefore deemed to be limited, not only due to its isolated position as set out above, but also due to its size, position and landscape quality. The belt of trees within the adjacent land to the south which is in the ownership of Network Rail and which also form part of a wider group TPO remain unaffected by the development. The small strip of land in front of the perimeter fence therefore becoming part of the domestic garden associated with the host dwelling is not, in officers' opinion, considered to be harmful from a visual amenity point of view. In officers' opinion the development in fact represents a visual improvement to this particular area through tidying up a previous area of scrubland and improving the aesthetics of the area by terminating the parking area with a close board fence and gate that is not considered to cause material visual harm to the wider surrounding character of the estate.

Concern has been expressed through a number of written representations about the purchase of the additional strip of land that has effectively enlarged the area of land enclosed by the applicant. Matters of land purchase and details of original agreements between developers and site maintenance contractors are not material planning considerations and therefore the planning application for the change of use of land and the erection of boundary treatments must be considered on its own merits, as submitted, with a view reached as to the acceptability of the development in planning terms and whether or not material harm would be caused such to justify a refusal of permission.

Having regard to the assessment of the site in its context and the way in which this area of land contributes to the immediate character of the area, officers consider that its use as extended garden for the host dwelling would not impact on the wider visual amenities of the area nor would it undermine the openness of the estate as a whole. Moreover, should permission be forthcoming for this development, officers do not consider it would set any kind of precedent. Not only should each development proposal be considered on its own merits, but as explained above, there is a set of very site specific and unique circumstances relevant to this particular piece of land where the same could not be said of many other areas of open land found elsewhere across the development.

The fence and gate is considered to be acceptable in visual terms. Its location at the end of a parking area, used principally by the residents of those properties the parking serves and as such is not visible from within the public realm, results in a means of enclosure that does not undermine the principles of removing Part 2 of the Permitted Development Rights when the development was first approved. Similarly the approval of this fence would not set a precedent for other means of enclosure elsewhere across the development which would need to be

determined on the site specific factors of where such a means of enclosure is proposed and how acceptable in visual terms that may be.

In considering the acceptability of the change of use of land, officers are of the view that should permission be forthcoming it would be entirely appropriate to remove permitted development rights from the application site for both detached outbuildings (Part 1 Class E) and hardstanding (Part 1 Class F).

Subject to the proposed removal of permitted development rights which would further limit what other works can be carried out within the site, officers are satisfied that the development does not result in such material visual harm to the character of the site and surrounding area, nor does it undermine the fundamental principles of openness on which the original estate was planned, and accordingly the development is considered to be acceptable in this respect.

Impact on the living conditions of nearby dwellings

The physical change of use of the land in question has resulted in no operational development or the erection of physical structures which might otherwise result in material harm to the amenity of neighbouring properties. The erection of the fence and gate does not, in officers' view, result in any harm to neighbours by reason of overbearing, overshadowing or overlooking. The development is therefore considered to be acceptable in this respect.

Impact on the setting of the heritage asset(s)

The original Emscote Lawns building, which is Grade II listed, and around which the rest of the development was originally planned, sits some 195m from the closest edge of the northern application site boundary. The area of land subject to the change of use is separated from the listed building by the row of terraced properties to the north, a secondary row of properties that front the main estate road (Campriano Drive) and the large central green area which forms the focal point of the estate around which much of the development has been placed. The original development was carefully and thoughtfully planned to take account of the relevant heritage impacts and at this point in time, officers are of the view that a change to the way in which the area of land forming the subject of this application is used would not affect the setting of the heritage asset in this case.

Car parking and highway safety

Officers are satisfied that the development does not result in a net reduction in the number of parking spaces available relative to the number of properties using them. Therefore the development is not considered to be detrimental to highway safety.

Ecological impact

The County Ecologist has raised a concern over the prospect of the area of land becoming part of a residential curtilage because of the potential risk that in such a case, trees and other planting could subsequently be removed. Whether the

land in question is within someone's curtilage, or part of a wider area of openness, the removal of trees and landscaping, outside of a conservation area, does not require consent so the risk of this happening in this particular part of the site would not increase by enclosing the land into an individual property's garden. Moreover, the Ecologist's concern lies with the railway buffer, the tree planting within it, the original condition of the now enclosed land and the potential knock on effect this development could have on protected/notable species. The original condition of the land was scrub; all notable trees and planting are the other side of the perimeter fence, within the railway buffer zone. More fundamentally, these trees are subject to a group TPO and as such their removal, or indeed any works to them would require the appropriate consent. Officers are of the view that the removal of permitted development right for hard surfacing will ensure the landscaped area of the enclosed land will remain as such, thus minimising any harm to protected/notable species.

SUMMARY/CONCLUSIONS

The change of use of this particular area of land to be incorporated into the host dwelling's garden area would not, in officers' view, result in material harm to the visual amenities of the wider area, due to its relatively isolated position, away from the public realm and its consequent limited value to the overall openness of the estate. Enclosing this area would not undermine the general principles of the open estate and officers are of the view that this development by no means sets a precedent for other similar areas to come forward since each would need to be assessed on its own merits and the individual circumstances pertinent to that particular site in its context.

There would be no resulting harm to the amenity of neighbouring properties and no detriment to highway safety or ecology. Accordingly it is recommended that planning permission be approved subject to the conditions set out below.

CONDITIONS

- 1 The development hereby permitted shall be maintained strictly in accordance with the details shown on the site location plan and approved drawing BL/2017/1 REV:2 and specification contained therein, submitted on 4 September 2017. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
- 2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development to form hard surfaces within the application site shall be carried out and no building or enclosure shall be provided within the area of residential curtilage hereby permitted as illustrated on approved drawing BL/2017/1 REV:2. **REASON:** To protect the visual amenities of the locality and that in having regard to the design, layout and general nature of the proposed development it is important to ensure that no further development is carried out which would detract from the

appearance of the area in accordance with Policies BE1 and BE3 of the
Warwick District Local Plan 2011-2029
