

Planning Committee: 03 March 2020

Item Number: 6

Application No: [W 19 / 0860](#)

Town/Parish Council: Warwick

Registration Date: 09/01/20

Case Officer:

Emma Booker

Expiry Date: 05/03/20

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6 Phillippes Road, Woodloes Park, Warwick, CV34 5TR

Erection of 1.95m high fence and change of use of land from open space to garden land (Retrospective Application). FOR Mr. Lakhbir Singh

This application is being presented to Planning Committee due to the number of comments in support received from neighbours and the application is recommended for refusal.

RECOMMENDATION

It is recommended that Members refuse planning permission for the reasons set out at the end of this report.

DETAILS OF THE DEVELOPMENT

The application seeks retrospective planning permission to re-site the fence from the side boundary to adjacent to the highway. The fence has been erected on the north side of Brese Avenue and incorporates the grass verge into the private amenity space of 6 Phillippes Road. The fence is approx. 1.95 metres in height and is set back slightly from the edge of the pedestrian footpath, thus retaining a narrow strip of grass.

The applicant has submitted a Design and Access statement with the application, which outlines the rationale for the development. The statement describes various issues associated with the up-keep of the grass verge, anti-social behaviour, poorly maintained/ overgrown trees, dog fouling and grooming, poor visibility/ safety concerns for pedestrians and parked vehicles, litter/fly-tipping etc. - all of which the applicant states have been addressed by the development. Photographs have also been included in the Design and Access Statement in support of the applicant's rationale for the development. A letter from the Council's Estates Manager is also included which confirms that the land is not within Warwick District Council's ownership.

THE SITE AND ITS LOCATION

The application property is a two-storey semi-detached dwelling located on a corner plot at the junction where Phillippes Road meets Brese Avenue on the Woodloes Estate in Warwick. The Woodloes Estate is characterised by an open plan layout which was secured at inception and has been maintained through the removal of permitted development rights for new means of enclosure. This gives the estate a pleasant open, spacious and landscaped character. Prior to the re-

siting of the fence, a 6m wide (approx.) area of green landscape area formerly separated the side boundary of the subject property from the pedestrian footpath on the north-side of Brese Avenue. A number of trees were planted within this grassed area.

PLANNING HISTORY

No relevant planning history.

RELEVANT POLICIES

- National Planning Policy Framework
- The Current Local Plan
- BE1 - Layout and Design
- BE3 - Amenity
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- FW1 - Development in Areas at Risk of Flooding
- Guidance Documents
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Parking Standards (Supplementary Planning Document)

SUMMARY OF REPRESENTATIONS

Warwick Town Council - Object on grounds that the development results in harm to the character and appearance of the area and conflicts with Policy BE1. The Town Council also acknowledges the recent appeal against a refusal of planning permission for the retention of a fence at Huddisdon Close on the Woodloes estate which was dismissed.

WCC Highway Authority: No objection.

WCC Landscape Team: Objection on grounds of the development's adverse impact on the character and appearance of the area.

Public Response:

29 support comments received (26 support signatures received via petition (included in Design and Access Statement / 2 support comments received via WDC website, house number not disclosed / 1 support received via website) on the following grounds:

- the development has improved safety for pedestrians and parked vehicles;
- the development compliments/ is of benefit to the character of the area;
- the development appears neat, tidy and professionally installed;
- the removed trees were an eyesore;
- the development has deterred and eradicated anti-social issues;
- the development was required to maintain the land.

8 objection comments received (7 of which have not disclosed house number) on the following grounds:

- the development appears incongruous and has had an adverse impact on the open character of the street;
 - the development has reduced the green open spaces;
 - the development sets a harmful precedent and will encourage other developments of the same nature;
 - the development reduces the visibility when approaching the junction with Brese Avenue;
 - the remain strip of grass/weeds look untidy;
 - the development protrudes forward of the building line;
 - the benefits of the development felt solely only to the applicant;
 - the described incidence of anti-social behaviour is an exaggeration;
 - the justifications for the development are invalid;
 - permitted development rights for the erection of fences have been removed for the Woodloes;
 - fencing all the green areas must not be allowed so that the Woodloes open landscape can be retained;
 - WDC do maintain the area of grass;
- regard should be given to the appeal decision at Huddisdon Close.

DETAILS OF THE DEVELOPMENT

The application seeks retrospective planning permission to re-site the fence from the side boundary to adjacent to the highway. The fence has been erected on the north side of Brese Avenue and incorporate the grass verge into the private amenity space of 6 Phillippes Road. The fence is approx. 1.95 metres in height and set back slightly from the edge of the pedestrian footpath, thus retaining a narrow strip of grass.

The applicant has submitted a Design and Access Statement with the application, which outlines the rationale for the development. The statement describes various issues associated with; the up-keep of the grass verge, anti-social behaviour, poorly maintained/ overgrown trees, dog fouling and grooming, poor visibility/ safety concerns for pedestrians and parked vehicles, litter/ fly-tipping etc. - all of which the applicant states have been addressed by the development. Photographs have also been included in the Design and Access Statement in support of the applicant's rational for the development. A letter from the Estates Manager is also included which confirms that the land is not within Warwick District Council's ownership.

THE SITE AND ITS LOCATION

The application property is a two-storey semi-detached dwelling located on a corner plot at the junction where Phillippes Road meets Brese Avenue, Warwick. The application relates to the existing fencing located to the side boundary of the property, on the north-side of Brese Avenue. The Woodloes estate is characterised by an open plan layout which was secured at inception and has been maintained through the removal of permitted development rights for new means of enclosure. This gives the estate a pleasant open and landscaped character. As original, an approx. 6.0 wide area of green landscape separated the side boundary of the subject property from the pedestrian footpath on the north-side of Brese Avenue. A number of trees were planted within this grassed area.

PLANNING HISTORY

No relevant planning history.

ASSESSMENT

Design and impact on the street scene

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 Local Plan Policy BE1 seeks to ensure that development is 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 result in harm to the character of the local area. Finally, the Residential Design Guide SPD sets out steps which should be followed in order to achieve good design in terms of the impact on the local area; the importance of respecting existing importance features; respecting the surrounding buildings and using the right materials.

27 support comments have been received from neighbours. With regard to design, these neighbours consider that the development positively contributes to the street scene by stating that the fence is of a high quality and professionally installed and was required to improve the appearance of the land.

8 objection comments have been received from neighbours on the basis that they consider the development to result in an incongruous feature which has an adverse impact on the open character of the street through the enclosure of green open space and would set a harmful precedent which would encourage other developments of a similar nature. The objectors disagree with the view that WDC did not maintain the land, and therefore contest the rationale for the proposal. It is considered that the benefits of the development are felt solely by the applicant. Objectors draw attention to the fact that Permitted Development Rights have been removed on the Woodloes Estate and that property owners/occupiers are required to apply for planning permission to carry out this form of development. Objectors consider that the green areas should not be allowed to be enclosed in order to retain the open character of the estate. Objectors also give regard to the recent appeal decision at the neighbouring property 1 Huddisdon Close (application ref: W/18/2119), where the appeal was dismissed for a similar proposal.

The Landscape Team at Warwickshire County Council and Warwick Town Council have also submitted objections to the development on the basis that it does not positively contribute to the character and appearance of the area. Concern is also raised over the position of the fence forward of the building line on Brese Avenue.

The application property is located on a corner plot, at the junction between Phillippes Road and Brese Avenue. The original fence line ran along the side

boundary of the property along the north-side of Brese Avenue, with a large strip (approx. 6 metres in width) of green landscaping separating the fence and the public footpath. A number of trees were also planted within the green verge.

A new fence line has been erected and is situated less than 1.0m from the public footpath, which is considered to have a significant detrimental impact on the character and appearance of the street scene. Officers do not agree with the supporters of the proposal that the development makes a positive contribution to the street scene. The original area of green landscaping acted as a buffer between the footpath and the fence. Hard boundary treatments in this area are typically set well back from the public highway with soft landscaping as the intervening feature. In the immediate street scene there are several large areas of green open space with boundary treatments set back from the highway which can be seen directly opposite the site along the east-side of Phillipps Road and south-side of Brese Avenue. The proposal is therefore considered to contrast with the open and landscaped character of the street scene, thus appearing as an overly dominant and incongruous feature which results in harm to the open and spacious feel of the area.

The Woodloes Estate benefits from large amounts of green spaces especially between built up frontages and the public highway. It is considered that the original green open area formed part of the established character of the area and provided soft landscaping in a highly built up area. To re-site the high boundary fencing to its current position, closer to the highway, is considered to result in the loss of a large area of green open space which previously positively contributed to the character of the street scene.

Officers have given regard to support comments which consider that the fence provides a solution to the lack of maintenance carried out on the land, however, it is considered that alternative means of addressing this issue exist which would not have a detrimental impact on the character of the street scene. It is therefore considered that the perceived overgrown and untidy nature of the green open space does not provide adequate justification of the proposal which appears incongruous in the street scene. The development is therefore considered unacceptable. The visual impression of a hard boundary treatment in the street scene is increased and is not in keeping with the established character of the immediate street scene or the wider character of the Woodloes estate.

Within the Design and Access Statement, the applicant has provided examples of a number of sites where fences have been erected adjacent to the highway. The addresses of the sites have not been provided and Officers are therefore unable to determine the location of the developments and consider that these examples provide little weight in favour of the development subject of this planning application.

With regard to 1 Huddisdon Close, planning permission (W/18/2119) was refused for the retention of a 1.98m high fence to the southern boundary and the subsequent appeal was dismissed on grounds of the harm to the open and spacious character of the area. This is a material consideration in the assessment of the current application.

As expressed by the objectors, it is also the concern of Officers that granting this application would set a harmful precedent for the loss of other large areas of green open space to be incorporated into residential curtilage, which the Council have sought to resist via the removal of Part 2, Class A Permitted Development Rights (means of enclosure) across the Woodloes Estate. The cumulative impact of such proposals would have a detrimental impact on the open and landscaped character and appearance of the Woodloes Estate.

The proposed development is therefore considered to conflict with Local Plan Policy BE1 and the NPPF since the design of the development would not harmonise with the street scene and the character of the area and is considered to constitute poor design.

Impact on the amenity of neighbouring properties

Policy BE3 of the Warwick District Local Plan 2011-2029 states that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents. Furthermore, the Residential Design Guide SPD includes the 45 Degree Guideline which seeks to prevent any unreasonable effect on the neighbouring property resulting from loss of daylight, sunlight or outlook.

It is considered that the proposed boundary treatment would have an adverse impact on the amenity of the occupiers of 29 Brese Avenue. The boundary treatment breaches the 45-degree line when taken from the mid-point of a window fitted within the principle elevation of the dwelling at ground floor level, which serves a habitable room. The boundary treatment is considered to curtail both light and outlook to this room and is therefore considered to result in harm to living conditions.

Officers acknowledge that a large conifer tree is planted at the front boundary of 29 Brese Avenue, which has an existing impact on light and outlook to the neighbour's habitable room. However, it is considered that the presence of the tree does not diminish Officer's concerns with regard to the impact of the fence on light and outlook to 29 Brese Avenue.

For the reasons discussed above, it is considered that the development fails to comply with Local Plan Policy BE3 the Residential Design Guide SPD

Support comments from neighbours state that the proposal should be supported due to the impact that the fence has improved pedestrian safety - according to the Design and Access Statement, the removal of the trees has increased visibility and reduced places in which people can hide and jump out at pedestrians. In addition to this, it is considered that the fence acts as a deterrent for anti-social behaviour. Objectors however contest the view that anti-social behaviour was a problem in the area prior to the erection of the fence. Due to a lack of information with regard to this, Officers have given limited weight to this justification put forward by the applicant and in any case, it is considered that this would not outweigh the harm to the character and appearance of the area.

Flood Risk

The site lies within Flood Zone 2. Due to the nature of the development, it is considered that it would not increase the likelihood of flooding within the locality. The proposal is therefore considered to satisfy the criteria of Local Plan Policy FW1.

Highway Safety

The Highway Officer at the Highway Authority at Warwickshire County Council has carried out an assessment of the development and raises no objection on highway safety grounds. Officers are therefore satisfied that the proposal complies the criteria of Local Plan Policy TR1.

CONCLUSION

The proposed re-siting of the fence is considered to be harmful to the character and appearance of the area. The development is also considered to be harmful to the amenity of 29 Brese Avenue due to a significant breach of the 45-degree line from a ground floor window fitted within the principle elevation of the property, which serves a habitable room. The development therefore conflicts with Local Plan Policies BE1 and BE3 of the Local Plan, the Residential Design Guide SPD and the NPPF.

REFUSAL REASONS

- 1 Policy BE1 of the Warwick District Local Plan 2011-2029 states that development will only be permitted which positively contributes to the character and quality of the environment through good layout and design.

The Woodloes Estate is characterised by open plan frontages and green landscaping which gives the estate a pleasant spacious and open character. In contrast, the re-sited fence results in the enclosure of green landscaping and results in a 1.95m high boundary treatment located adjacent to the public highway. This is not characteristic of this area and results in unacceptable harm to the character and appearance of the area.

The granting of planning permission for this fence would set an undesirable precedent which would make it increasingly difficult for the Council to resist similar future proposals relating to other residential properties in this development which cumulatively would result in serious harm to the open character of the estate.

The development is thereby considered to be contrary to the aforementioned policies.

- 2 Policy BE3 of the Warwick District Local Plan 2011-2029 states that development will not be permitted which has an unacceptable adverse

impact on the amenity of nearby uses and residents. The Local Planning Authority (LPA) has also adopted the 45 Degree Guideline as part of its Residential Design Guide SPD which aims to prevent any unreasonable effect on the neighbouring property by reason of loss of daylight or sunlight and by creating an unneighbourly and overbearing effect.

In the opinion of the LPA, the development has an adverse impact on the living conditions of the occupiers of 29 Brese Avenue. The fence breaches the 45-degree line when taken from the mid-point of a window which serves a habitable room fitted within the front elevation of the single storey front extension. The development is therefore considered to have an unacceptable impact on the amenity of this neighbour by reason of loss of light and outlook.

The proposal is thereby considered to be unneighbourly and contrary to the aforementioned policy.
