

**Planning Committee:** 16 September 2014

**Item Number:** 10

**Application No:** W 14 / 0975

**Town/Parish Council:** Warwick

**Case Officer:** Helena Obremski

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**Registration Date:** 09/07/14

**Expiry Date:** 03/09/14

**10 Earl Rivers Avenue, Warwick Gates, Warwick, CV34 6EN**  
Erection of boundary wall (retrospective application) FOR Mr H S Dulay

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This application is being presented to Committee due to an objection from the Town Council having been received.

### **RECOMMENDATION**

Planning Committee are recommended to grant planning permission.

### **DETAILS OF THE DEVELOPMENT**

The applicant seeks retrospective planning permission for the erection of a 0.8 metre high brick boundary wall which has been constructed on the boundary between Number 10 and Number 8 Earl Rivers Avenue at the front of these properties. Permitted development rights for erection of fences, walls or means of enclosure have been removed on this development.

### **THE SITE AND ITS LOCATION**

The application property is a semi-detached dwelling, with a garage and driveway parking. The application site is positioned to the North East of Earl Rivers Avenue, which is part of a modern housing estate.

### **PLANNING HISTORY**

There is no relevant planning history relating to this site.

### **RELEVANT POLICIES**

- National Planning Policy Framework

#### Warwick District Local Plan 1996 – 2011

- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

- The 45 Degree Guideline (Supplementary Planning Guidance)

#### The Emerging Warwick District Local Plan 2011 - 2029

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

### **SUMMARY OF REPRESENTATIONS**

**Warwick Town Council** - Object to the application on grounds of design and on the basis that the area was intended to be kept open plan. The Town Council suggest a site visit be carried out.

**Public Response** - 1 letter of objection has been received from the occupiers of 8 Earl Rivers Avenue on the following grounds: Poor quality design; the wall detracts from the overall quality of the property; it will affect the value of their property and others within the street; the wall breaches a covenant by blocking a public right of way.

### **ASSESSMENT**

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

- The impact on the character and appearance of the area
- The impact on the living conditions of nearby dwellings
- Health and Wellbeing

#### The impact on the character and appearance of the 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 1996 - 2011 Policy DP1 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. Emerging Local Plan Policy BE1 reiterates that development will be permitted which positively contributes to the character and quality of its environment through good layout and design. The current and emerging Local Plans call for development to be constructed using the 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. Finally, the Residential Design Guide SPG sets out steps which must 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.

The brick boundary wall which has been constructed is considered to be an inconspicuous feature which does not materially alter the street scene as it sits on the boundary between the two properties rather than along the boundary with the highway. It is also only 0.8 metres high and largely shielded from public vantage points by a hedge which fronts the public highway.

Permitted development rights have been removed from the site and others within the street scene for the erection of fences in order to maintain open frontages. Warwick Town Council have objected to the application on the basis that the design does not comply with the original plans for the area, in that an open plan aspect has not been retained. Although this wall goes against the principle of an open frontage, by reason of its scale, position and as the hedge acts as a screen, the perception of openness is retained and it does not appear as an incongruous feature in the streetscene.

There has been one public response to the application from Number 8 Earl Rivers Avenue who object to the proposal on the basis that wall is poor in quality and detracts from the overall quality of the property construction within the street scene. However, it is considered that appropriate materials have been used in the construction of the wall and the quality of the wall construction is adequate. Number 8 also object on the basis that the proposal will affect their property value and that there is a covenant in the deeds which means that the wall has been built over a public right of way and should be removed. These are not material planning considerations and cannot be taken into account in the determination of this application.

It is therefore considered that the proposal complies with the NPPF, Local Plan policy DP1 and the Residential Design Guide.

#### The impact on the living conditions of nearby dwellings

Warwick District Local Plan Policy DP2 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development. Local Plan Policy DP2 and emerging Local Plan Policy BE3 highlight that there is a responsibility for development not to cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, noise disturbance, light pollution or create visual intrusion. The Residential Design Guide SPG provides a framework for Local Plan Policy DP2 and emerging Local Plan Policy BE3, which stipulates that extensions should not breach a 45 degree line taken from a window of nearest front or rear facing habitable room of a neighbouring property.

Neither of the adjoining properties suffers any material harm in terms of loss of light, outlook or privacy as a result of the construction of the wall. There is no conflict of the Council's adopted 45 degree guidance from either neighbouring

property. Therefore, the proposal is considered to comply with Local Plan Policy DP2 and the Residential Design Guide SPG.

#### Health and Wellbeing

N/A

#### **Conclusion**

In conclusion, the retrospective application for the brick built boundary wall is considered to be of acceptable design and scale which does not impact adversely on the on the character or appearance of the street scene and does not substantially impact on the amenity of neighbouring properties.

#### **CONDITIONS**

- 1 The development hereby permitted relates strictly with the details shown on the site location plan and approved amended drawing No. 2, and specification contained therein, submitted on 28th July 2014. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
  
- 2 The existing hedge to the front boundary of the application site shall not be cut down, grubbed out or otherwise removed. If the hedge is removed without consent or is dying, or becomes severely damaged or diseased or becomes, in the opinion of the local planning authority, seriously damaged or defective, within five years from the date of this permission, it shall be replaced within the next planting season with hedging of such size and species details of which must be submitted to and approved by the local planning authority. **REASON:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.

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