



Appeal Decision

Site Visit made on 3 August 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2021

Appeal Ref: APP/X3405/D/21/3274717

Blue Cedars, 29 Beechmere Rise, Etchinghill, Rugeley, WS15 2XR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr. A. Gittins against the decision of Cannock Chase District Council.
 - The application Ref CH/20/075, dated 20 February 2020, was refused by notice dated 24 March 2021.
 - The development proposed is retention of brick and panel fence, decking, and reed fence, widening of driveway including associated construction of retaining walls, and erection of boundary wall and fence to NE boundary (part retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for the retention of brick and panel fence, decking, and reed fence, widening of driveway including associated construction of retaining walls, and erection of boundary wall and fence to NE boundary (part retrospective) at Blue Cedars, 29 Beechmere Rise, Etchinghill, Rugeley WS15 2XR in accordance with the application ref CH/20/075, dated 20 February 2020 and subject to the following conditions:
 - i. The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed ref 18-080-01b; Proposed ref 1489.2A; Cross Sections Drawing ref 18-080-20-04a; Property Detail and Level Survey ref 18-080-20-03; and Proposed Garden Layout Design ref 18-080-20-05a.
 - ii. Within one month of the date of this decision, a method statement supported by sectional drawing(s) of the boundary wall on the north-east boundary of the site and a timetable for its construction shall be submitted to and approved in writing by the local planning authority. The details will explain how and when the wall will be constructed and completed, including details on the position of the movement joints and the location of the fence posts. The development shall be carried out in accordance with the approved method statement, sectional drawing(s) and timetable.
 - iii. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become

seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Preliminary Matters

2. I have used the description of development on the Council's decision notice in the banner heading above because this more accurately describes the development proposed.
3. Work has begun to construct the boundary wall and fence on the north-east boundary of the appeal site. The development is therefore part retrospective. As a result, I have based my decision on the plans and evidence before me and the development on site.

Background and Main Issue

4. The Council's concern relates to the boundary wall and fence proposed on the north-east boundary of the appeal site. During the appeal, planning permission was granted for the brick and panel fence, decking and reed fence and the widening of the driveway including associated construction of retaining walls (ref CH/21/0173). In light of this and the evidence before me, the main issue is the effect of the proposed north-east boundary wall on the living conditions of the neighbouring occupiers, with particular regard to privacy and outlook and on the character and appearance of the area.

Reasons

5. There is a notable change in levels between the appeal site and the rear gardens of the houses fronting Penk Drive North. Overlooking is therefore an inherent characteristic of the two sites. A line of trees part way along the rear boundary of the appeal site obscures immediate views between gardens. However, further along, there is little on the boundary to prevent occupiers overlooking each other's property. The boundary wall and fence proposed would reduce overlooking and therefore increase privacy. The development would not eliminate overlooking but given the intervening distance of the development from the neighbouring property, there would not be a discernible loss of privacy that is considered harmful to living conditions.
6. The development would be clearly visible in views from the house and rear garden of the plot off Penk Drive North which immediately adjoins the appeal site. Particularly so in contrast to the original situation that had vegetation on the shared boundary. However, the development would be at the end of the garden of the neighbouring property and some distance from the house. The fence, therefore, would not appear unduly dominant or overbearing to have a harmful effect on outlook.
7. Close-boarded fencing is a common characteristic of the rear gardens to houses fronting Beechmere Rise. The boundary wall and fence proposed on the north-east boundary of the appeal site, therefore, would not appear incongruous.
8. Third parties raise concern for the structure of the wall and its safety. The evidence before me suggests that the wall, with concrete backfill, would serve adequately as a boundary wall. There is no substantive evidence before me to suggest otherwise. Existing cracks have been investigated and the appellant

proposes to make good existing cracks and introduce movement joints to make sure that the wall can adapt to temperature changes. Filling the void between the wall and the earth face excludes the need for weepholes or other drainage measures. I find no grounds, therefore, on which to consider the wall unsafe or a threat to public safety.

9. Nonetheless, some anomalies in the structural evidence and method statement before me need clarifying to ensure that the wall is constructed to the specification that renders it safe. The boundary wall assessment suggests that the fence should not be installed on top of the concrete wall. However, the drawings do not show that this would be the case and the method statement is not unequivocal on this matter. Furthermore, the method statement refers to the wall being taken down where movement joints are to be introduced. This is supported by the structural evidence but it is not clear on the drawings where these joints would be. In allowing the appeal, it is necessary and reasonable to apply a condition that clarifies these matters before site works resume.
10. All in all, I find that the development would not have a harmful effect on the living conditions of the neighbouring occupiers, with particular regard to privacy and outlook, nor on the character and appearance of the area. The development, therefore, complies with Policy CP3 of the Local Plan (2014) which, amongst other things, seeks development that relates well to its surroundings and protects the amenity enjoyed by existing properties.

Other matters

11. I note the concerns regarding land ownership and access rights. These are civil matters outside the remit of this appeal and would need to be addressed under legislation dealing with private legal rights regarding land ownership. As such, this matter has not had any bearing on my assessment of the planning issues in this appeal.
12. All other matters referred to in the representations have been taken into account, but no other matter is of such strength or significance as to outweigh the considerations that have led me to my conclusions.

Conditions and Conclusion

13. The Council's committee report before me refers to conditions should the development be considered acceptable. I have reviewed these conditions and where necessary, omitted or reworded the suggested conditions in the interests of clarity and enforceability.
14. I have attached a requirement for accordance with the approved plans in the interests of certainty. This condition specifies the approved works for clarity. As this condition specifies materials, there is no need for a separate condition in this regard.
15. A condition regarding landscaping is necessary to ensure that the character and appearance of the area is safeguarded.
16. In light of my reasoning, a condition regarding a method statement is necessary. As this includes a timetable, I have not included a separate condition to enforce a deadline for the works proposed.

17. For the reasons set out above, and having regard to all matters raised, the appeal is allowed subject to conditions.

R Walmsley

INSPECTOR