



Appeal Decision

Site visit made on 26 February 2025

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 FEBRUARY 2025

Appeal Ref: APP/L3245/C/23/3333860

6 Tudor Close, Market Drayton, Shropshire, TF9 3QR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Belford Homes Ltd against an enforcement notice issued by Shropshire Council.
 - The notice was issued on 25 October 2023.
 - The breach of planning control as alleged in the notice is without planning permission, operational development in the form of the erection of a brick wall adjacent to a highway at a height exceeding 1 metre in the location marked with an 'X' on the attached plan.
 - The requirements of the notice are to (i) demolish the wall and remove from the land all waste and materials to a site licensed to receive such material, returning the land to its former condition prior to the unauthorised works occurring, or (ii) reduce the wall to a maximum height of 1 metre, i.e., for complete clarity no part of the wall should exceed a height of 1 metre, including the pillars and remove from the land all waste and materials to a site licensed to receive such material.
 - The period for compliance with the requirements is 56 days.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely operational development in the form of the erection of a brick wall adjacent to a highway at a height exceeding 1 metre, at 6 Tudor Close, Market Drayton, Shropshire, TF9 3QR as shown on the plan attached to the notice.

Preliminary Matters

2. The National Planning Policy Framework was revised in December 2024 (the 2024 Framework) and was subsequently amended on 7 February 2025 to correct cross-references from footnotes 7 and 8 and amend the end of the first sentence of paragraph 155 to make its intent clear. The 2024 Framework replaces the previous version of the National Planning Policy Framework published in December 2023. The 2024 Framework has not materially changed in terms of the consideration of the ground (a) appeal main issue below. Therefore, it has not therefore been necessary for me to seek comments from the main parties about the implications of the 2024 Framework.

3. The evidence indicates that there has been a dispute between the appellant and the occupier of No. 6 Tudor Close in terms of whether part of the wall has been built on land without the necessary permission from a landownership point of view. The evidence from the appellant is that the landownership issue has now been resolved. I cannot be certain from the evidence if this matter has been resolved, but, in any event, this is a private/legal matter between the parties. In other words, it is a matter to be considered separately from the planning merits of the deemed planning application. It is also noteworthy that the occupier of No. 6 Tudor Close has, in any event, made representations in respect of this appeal.

Main Issue

4. The appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. The main issue is the effect of the unauthorised development on highway safety.

Reasons

5. The unauthorised development relates to the erection of a brick wall (with pillars) adjacent to a highway used by vehicular traffic. It is positioned in front of an extended driveway and garden land associated with No. 6 Tudor Close which is a detached brick built dwellinghouse on a housing estate. It is also positioned next to a children's play area although it does not in itself enclose this land. The children's play area is enclosed with railings and a wooden fence.
6. Tudor Close, which is a cul-de-sac, has been developed in two stages with the first stage comprising four dwellinghouses and then the second stage comprising twenty-one residential units. The brick wall, which includes the name of the road (i.e. Tudor Close), has a similar appearance to the wall opposite it and which is closely aligned with No. 3 Tudor Close. It is understood that these walls are positioned in a location which marks the transition between the two phases of development.
7. No. 6 Tudor Close has effectively two drives albeit that they are not separated from each other by any physical barrier. One drive is in front of the main entrance to the dwellinghouse and the other angles towards an attached double garage. The appeal wall, which includes a pillar near to one of the driveways, is nonetheless set slightly back from this access and instead there is a grassed area.
8. While my site visit was only a snapshot in time, I noticed that traffic speeds were very low. Moreover, motorists are alerted to the requirement to travel no more than 10 mph owing to annotations on the surface of the highway just before the appeal wall which state '10' and 'slow'. I also noticed on my site visit that there was a sign on the wall opposite the appeal site which included a 10 mph speed limit. In addition, the wall is not far from the junction with Hampton Drive and there is a change in the surface material of the road just before the appeal wall. In my judgement, these highway characteristics alert motorists of the need to drive slowly and to adhere to no more than 10 mph.
9. The appellant has provided me with a copy of the drawing which accompanied an application to discharge condition No. 10 of planning permission

19/01040/FUL. This shows the location of the proposed wall, but no details of its height or appearance. There is no evidence before me to indicate that the full details of the wall have already been approved by the Council and it is noteworthy that the appellant has submitted a regularising planning application and a non-material amendment planning application to the Council which have been refused¹. That said, it is clear that at least in land use principle terms, there has been an intention to erect a wall on the appeal land for some time and the Council has been aware of this in terms of its consideration of other planning applications.

10. As part of my site visit, I was able to see that the driveways associated with No 6 Tudor Close angle forward of the wall and further into Tudor Close. In the context of what I noticed were low traffic speeds in Tudor Close, coupled with the '10' roundel and 'slow' marking on the road and the sign on the opposite wall, as well as the angled orientation of the driveways relative to the position of the wall (as illustrated in appendix 5 of the appellant's statement of case), I am satisfied that the development has not had an unacceptable impact on highway safety.
11. I find that I have been able to reach a sound conclusion on this matter based on my own site visit observations, the site conditions, the 10 mph restrictions and slow marking in Tudor Close, the ramped highway entrance feature, and the proximity to Hampton Drive. Notwithstanding this position, I do accept that those leaving the driveways (particularly the one nearest the wall) must do so with more care when compared to driveways where there is no wall or vegetation. However, given my observations about low traffic speeds in Tudor Close, the angled orientation of the driveways with the wall, and highway conditions generally, I do not find that unacceptable conflict between vehicles would be likely.
12. Overall, I am satisfied, given the likely speed of vehicles moving along this part of Tudor Close, that those motorists passing by in both directions can suitably see vehicles leaving the driveways with enough time to stop should that be necessary. I find that the position of the appeal wall (including pillars) has maintained acceptable vehicular sightlines for those using the driveways at No. 6 Tudor Close and for those travelling along Tudor Close.
13. I do not find that the wall has had an unacceptable impact on pedestrian safety. Dropped kerbs are provided throughout the whole of the estate. Hence, pedestrians can choose to cross Tudor Close to reach other pavements where intervisibility is good.
14. For the collective reasons outlined above, I conclude that the unauthorised development does not have an unacceptable impact on the highway safety of any road user. Accordingly, it accords with the highway safety requirements of policy CS6 of the Shropshire Local Development Framework Core Strategy 2011, policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan 2015, and chapter 9 of the 2024 Framework.

¹ Planning application 21/01797/FUL refused on 15 April 2021 and non-material amendment planning application 23/01897/AMP refused on 6 June 2023

Other Matters

15. While some concern has been raised by the occupier of No. 6 Tudor Close about the effect of the wall on the character and appearance of the area, it is noteworthy that this is not a concern raised by the Council. Moreover, a significant number of supportive comments have been received from members of the public including those that live in Tudor Close. In my judgement, the brick wall does not look out of place in the context of this housing estate and, in fact, provides a characterful 'entrance' feature, in conjunction with the wall opposite, for those travelling from one phase of the residential development to another. Moreover, given the position of the wall, I do not find that it has resulted in material harm being caused to the occupiers of No. 6 Tudor Close in terms of outlook or light.

Conditions

16. The deemed planning application relates to retrospective development. As the brick wall is adjacent to a highway used by vehicular traffic, any further increase in height would require planning permission given the restrictions and limitations imposed in respect of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is not necessary to impose any conditions.

Conclusion

17. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the operational development as described in the notice. The enforcement notice will be quashed.

D Hartley

INSPECTOR