

ITEM 5.14

**4/01555/15/FHA - DIVIDING FENCE TO FRONT GARDEN..
9 BARTHOLOMEW GREEN, MARKYATE, ST. ALBANS, AL3 8RX.
APPLICANT: MRS A ANGUS.**

[Case Officer - Rachel Marber]

Summary

This application is recommended for approval.

The proposed front garden fence would see the introduction of a solid barrier in Bartholomew Green, which is presently characterised by open front gardens. However, due to the proposed fence's modest size, position and design it would not have a significantly adverse impact upon the visual amenity of the existing dwelling house, immediate street scene, or the residential amenity of neighbouring residents. Furthermore, the case of specific circumstances in relation to the drop in topography levels between the site and neighbouring property and the resultant requirement to provide safe access for the owner of the property provide the additional justification necessary to the support of the application.

The proposal is therefore in accordance with saved appendix 7 of the Dacorum Local Plan (1991), policies CS11, CS12 of the Core Strategy (2013) and the NPPF (2012).

Site Description

an end of terrace dwelling house granted permission in 2002. The dwelling house is architecturally different from the immediately neighbouring properties, externally finished in cream render with a grey concrete tiled hipped roof. To the right of the dwelling there is an area of shared parking. Parking provision would sufficiently accommodate a minimum of one domestic car.

The property was built as part of a recently created cul-de-sac of similarly constructed properties (2002) featuring identical terraced houses. All properties are relatively regimented in regards to architectural detailing, separation gap, height and build line. The area has a verdant aspect emphasised by the planned communal green and rectangular garden plots serving the properties. Several properties have been extended, with rear extensions and loft conversions prevalent; however the overall character of the area remains very evident.

Proposal

The application seeks permission to construct a 1.3 metre high dividing fence to the front garden of the dwelling house. The purpose of the proposed fence is for safety, in order to prevent people falling off the 16 inch drop onto the neighbouring property.

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Markyate Parish Council.

Planning History

4/01252/10/FHA REAR CONSERVATORY
Granted
27/09/2010

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)

Dacorum Core Strategy (2013)

CS4 - The Towns and Large Villages
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design

Saved Policies of the Dacorum Borough Local Plan (1991-2011)

Appendix 7 - Small-scale House Extensions

Summary of Representations

Consultee Response:

Markyate Parish Council

"Objection

The Parish Council are aware of a covenant on this land that stops this being erected. Places with covenant should be available on a list for information."

Comments received from local residents:

23 Bartholomew Green

Bartholomew Green is an open plan development with the following covenants still in force.

4.2 Not to do or permit anything which may prejudice the open plan layout of the estate or any visibility splay in the property.

4.9.2 Not at any time to ...erect any buildings fences, or walls... one and a half metres either side of any service insulations.

This fence would affect all of the residents, not just the ones you have consulted.

Should safety genuinely be the issue there are other options that could be investigated that are a) unobtrusive and b) acceptable to all. There are no fences at all to the front of any houses in the entire development.

The proposed fence would be an eyesore, would affect 18 other families, contravene the open plan layout of the development and is against a development covenant that all of the other residents have abided since the properties were built.

2 Bartholomew Green

Bartholomew Green is a private development of which 23 properties face each other in a circular, open plan position. The development is of Open Plan with covenants applied, to protect the same.

I object to the above planning application. Bartholomew Green is an open plan development. Covenants are applied to the development which include:

4.2 Not to do or permit anything which may prejudice the open plan layout of the estate or any visibility splay.

4.9.2. Not at any time to plant any trees or deep rooting plants or shrubs nor erect any buildings, fences, walls or other erections one and a half metres either side of any service insulations.....

For safety purposes a rail would be more appropriate and not objected to. There are 24 properties in the close ALL of which will be in vision of the proposed fencing.

On the planning application I notice that it states that the proposed fence should match other fences! There are no fences to the front elevations of the Close.

Due to the nature of the development and safety aspects, surely a hand rail would be more appropriate and certainly would not detract from the visual splay of the development. I would imagine that a fence, on the very edge of a raised foot path, is likely to collapse if a weight falls on it.

As a resident of the Close and a director of the management company I feel that a fence will be an eyesore and surely not appropriate to the reason given; safety. I suspect that the reason for a fence is to obscure the wheelie bins next to her footpath!

Homeowners bought their properties here knowing that it is a private, open plan development.

8 Bartholomew Green

I write to you in regards to the above planning application and to strongly object to this proposition.

The erection of the dividing fence will inhibit the amount of natural light coming through our kitchen window at the front of our property, casting it in shadow as well as the rest of our garden.

In addition to this we feel such a dividing fence will add a visual intrusion to our property and will have a menacing appearance seen as we only have a small front garden.

We also feel that the applicants comments regarding erecting a fence of similar size to

'match existing fences around the green' to contain a degree of inaccuracy - there are currently no front garden dividing fences of this size currently erected (those that do exist of this nature are in fact rear garden fences for end/corner properties that are only visible from the side of the property).

We completely respect that the applicant is elderly, however we feel it unjustified to erect such a structure.

14 Bartholomew Green

Agree with points already made. There are currently no fences (4ft or otherwise) in any of the front gardens of Bartholomew Green. To erect one would be out of keeping with the open plan nature of the development and could set an unwanted precedent. A safety rail would be a lot more appropriate and functional.

22 Bartholomew Green

"We agree with points already raised. Bartholomew Green is an open residential area with no individual fences etc to separate the front aspect of properties."

10 Bartholomew Green

"This application is out of keeping with the development, and also there are covenants in place on the land that directly prohibit the proposed alteration."

7 Bartholomew Green

"This development should be open plan and we wish it to remain so"

25 Bartholomew Green

"This is a private open plan development and should remain the same. There are no fences to the front of any of the properties and this should remain so. A hand safety rail would be more appropriate."

"There are no fences to the properties in this development and we wish it to stay this way. It states in our deeds that out close should be open plan. All residents have supported this over the lifetime of the development. A fence down the front of a footpath is not acceptable."

Considerations

Principle of Development

The application site is located within a residential area, wherein the principle of a residential extension is acceptable subject to compliance with the relevant national and local policies outlined below. The main issues to the consideration of this application relate to the impact of the proposed addition on the character and appearance of the existing dwelling house, immediate street scene and the residential amenity of neighbouring properties.

Effect on Appearance of Building and Street Scene

Saved appendix 7 of the Dacorum Local Plan (1991), policies CS11, CS12 of the Core Strategy (2013) and the NPPF (2012) all seek to ensure that any new development/alteration respects or improves the character of the surrounding area and adjacent properties in terms of scale, massing, materials, layout, bulk and height.

In accordance with the submitted application the proposed garden fence would be of simple, traditional close boarded wooden structure design. The proposed fence would be 1.3 metres in height and 3.4 metres in width. Thus, the proposed fence is consequently considered of modest size and would consist of natural materials.

The majority of objections raised were in regards to visual amenity. The main points of concerns are as follows:

- The fence would appear as an abnormality within the cul-de-sac
- The proposed fence would contravene the open plan layout of Bartholomew Green
- The fence would appear as a visual intrusion
- A covenant exists preventing the erection of fencing

The grant of planning permission would not override an existing covenant, and thus would not be a planning material consideration in the determination of the application.

The entrance of Bartholomew Green is emphasised by 1 metre high brick walls and 1.8 metre high close boarded wooden fences defining the boundary of properties 1 – 4 Bartholomew Green. This creates an enclosed entrance which arguably sets precedence for the form of development within the close. Thus, it is considered that the proposed 1.3 metre high fence would replicate this, forming a defined front entrance to 9 Bartholomew Green.

Moreover, the proposed fence would not be significantly detrimental to the open plan layout of the area, due to the 1.3 metre proposed height which would reside below the line of sight. This would result in no greater visual harm than the bins stacked against the boundary of several dwellings within the street scene. Furthermore, the first metre of the proposed fence would be hidden from view by the bins located at the boundary between number 8 and 9 Bartholomew Green. Accordingly, the proposed fence would not appear as a stark visual intrusion, nor overtly impair the visual outlook of the Green.

Although Permitted Development Rights have been removed for this property it is important to note that Permitted Development Rights, Part 2, Class A, Minor operations, would certify a 1 metre high fence as Permitted Development, without the need for planning consent. For this reason a fence of the proposed height is generally considered to be a subservient element, of nominal harm to the openness and outlook

of an area.

Furthermore, it is important to note that there are no other examples along Bartholomew Green which have the same drop in levels alongside a front access path. As such, the proposed fence would be considered a one-off within the Green.

Due to the variation in topography levels along the boundary between number 9 and 8 Bartholomew Green there is a site-specific requirement for additional safety of the occupier when accessing her property; this requirement provides additional justification for supporting the application. As a result consideration has been given to an alternative form of barrier, (such as a picket fence, or safety rail, which would have a more open appearance), but due to the siting of the boundary line coupled with the safety purpose of the proposed fence the close boarded wooden structure is considered to be the best option in order to established the stability and safety required by the occupant.

For these reasons, the proposed fence would not set precedence within the street scape. The special circumstances of the applicant and the drop in levels have been taken into account and as a result it is recommended that permission be granted. Thus a grant of permission in this case would not set precedence for future fencing applications to the front gardens of other dwellings within the Green.

As a result the proposal is not considered overly visually intrusive or harmful to the character and appearance of the dwelling or street scene and would not set a precedence; accordingly the proposed coheres with the NPPF (2012), appendix 7 of the Dacorum Local Plan (1991) and CS11, CS12 of the Core Strategy (2013).

Effect on Amenity of Neighbours

The NPPF outlines the importance of planning in securing good standards of amenity for existing and future occupiers of land and buildings. Appendix 3 of the Local Plan (1991) and policy CS12 of the Core Strategy (2013), seek to ensure that new development does not result in detrimental impact upon neighbouring properties and their amenity space. Thus, the proposed should be designed to reduce any impact on neighbouring properties by way visual intrusion and loss of light and privacy. Moreover, appendix 7 of the Local Plan advises that alterations should be set within a line drawn at 45 degrees from the nearest neighbouring habitable window.

The neighbouring property, 8 Bartholomew Green, has raised concerns in regards to residential amenity:

- Loss of light into kitchen window
- The fence would cast a shadow over the front garden

The proposed fence would breach the 45 degree line as drawn from neighbouring property, number 8 Bartholomew Green's front window. Nonetheless, the proposed

fence would not be of detrimental harm due to the 1 metre set back position of 9 Bartholomew Green, coupled with the fence's proposed low residing height which would sit below number 8's kitchen window. Therefore, on balance, it is not considered that there would be a significant loss of daylight or sunlight to the neighbouring ground floor window as a result of the proposed. Furthermore, the proposed fence would not detriment outlook further than the bins which are positioned in front of the kitchen window of number 8 Bartholomew Green.

Thus, the proposed alteration would not impact upon the residential amenity of neighbouring residents; as a result, in regards to residential amenity, the proposal is acceptable in terms of the NPPF (2012), appendix 7 of the Local Plan (1991) and policy CS12 of the Core Strategy (2013).

Conclusion

It is recommended that planning permission be granted for the reasons stated in this report.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be constructed in accordance with the materials specified on the application form or such other materials as may be agreed in writing by the local planning authority.**

Reason: To ensure a satisfactory appearance to the development in accordance with CS12 of the Core Strategy (2013).

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:**

**Block Plan Showing Fence Location
Existing Elevation
Site Location Plan**

Reason: For the avoidance of doubt and in the interests of proper planning.

Article 31 Statement

Planning permission has been granted for this proposal. Discussion with the

applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.