

## REPORT FOR EASTERN AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	13 June 2024
<b>Application Number</b>	PL/2024/02018
<b>Site Address</b>	13 Collis Terrace, Crawlboys Lane, Ludgershall, Andover, SP11 9QZ
<b>Proposal</b>	Change of use of grass verge to residential garden, erection of new boundary walls, and installation of new dropped kerb.
<b>Applicant</b>	Mr Mark Wilmot
<b>Town/Parish Council</b>	Ludgershall
<b>Electoral Division</b>	Ludgershall North & Rural ED – Cllr Christopher Williams
<b>Grid Ref</b>	53.67879, -5.772088
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Hayley Clark

### Reason for the application being considered by Committee

This application is brought to committee at the request of the elected member Cllr Christopher Williams, due to the visual impact of the development and because the land has been purchased from Housing Association to extend the current garden of the property which requires a change of use of the land and the marking of the boundary by either a picket fence or brick wall.

### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations. Having weighed up the merits of the proposal, it is recommended that planning permission be **REFUSED**.

### 2. Report Summary

The main issues to consider are:

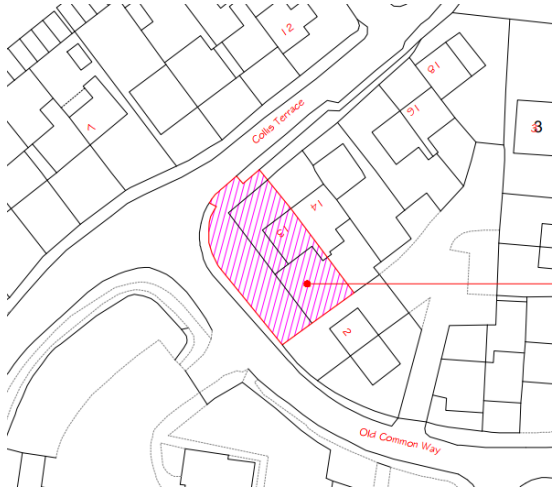
1. Background
2. Visual Impact
3. Residential amenity
4. Highway issues
5. Other considerations

### 3. Site Description

The application site is located on the south-east side of Collis Terrace within the settlement boundary of Ludgershall. Ludgershall is defined as a Market Town by Wiltshire Core Strategy (WCS) policies CP1 (Settlement Strategy), CP2 (Delivery Strategy) and CP26 (Tidworth Community Area).

The site is an end of terrace two storey brick-built dwelling located on a corner plot, with the front/principal elevation facing Collis Terrace and the side elevation parallel to Old Common Way.

Below is an extract from the submitted Location Plan:



The application site has an level enclosed rear garden; it is enclosed with a brick wall with a height of approx 1.80m. To the side and front, the property also benefits from amenity space, enclosed with a low wooden picket fence. Outside of the existing front and side boundaries, the property is bounded by grass verge and open space.

Site photos included below to show the application site and immediate locality.





#### 4. Planning History

K/79/0575/DP Development of 21 houses and 19 bungalows. Approved.

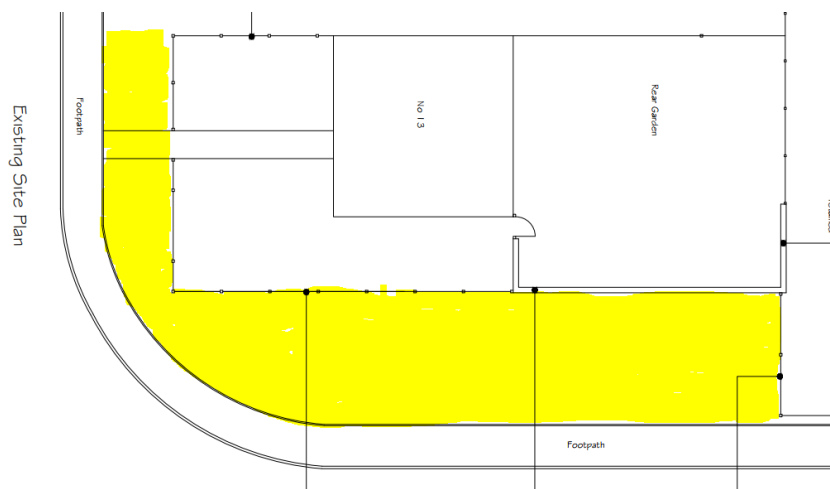
K/79/0070 Residential development. Approved.

K/77/0209/DP Residential development. Approved.

#### 5. The Proposal

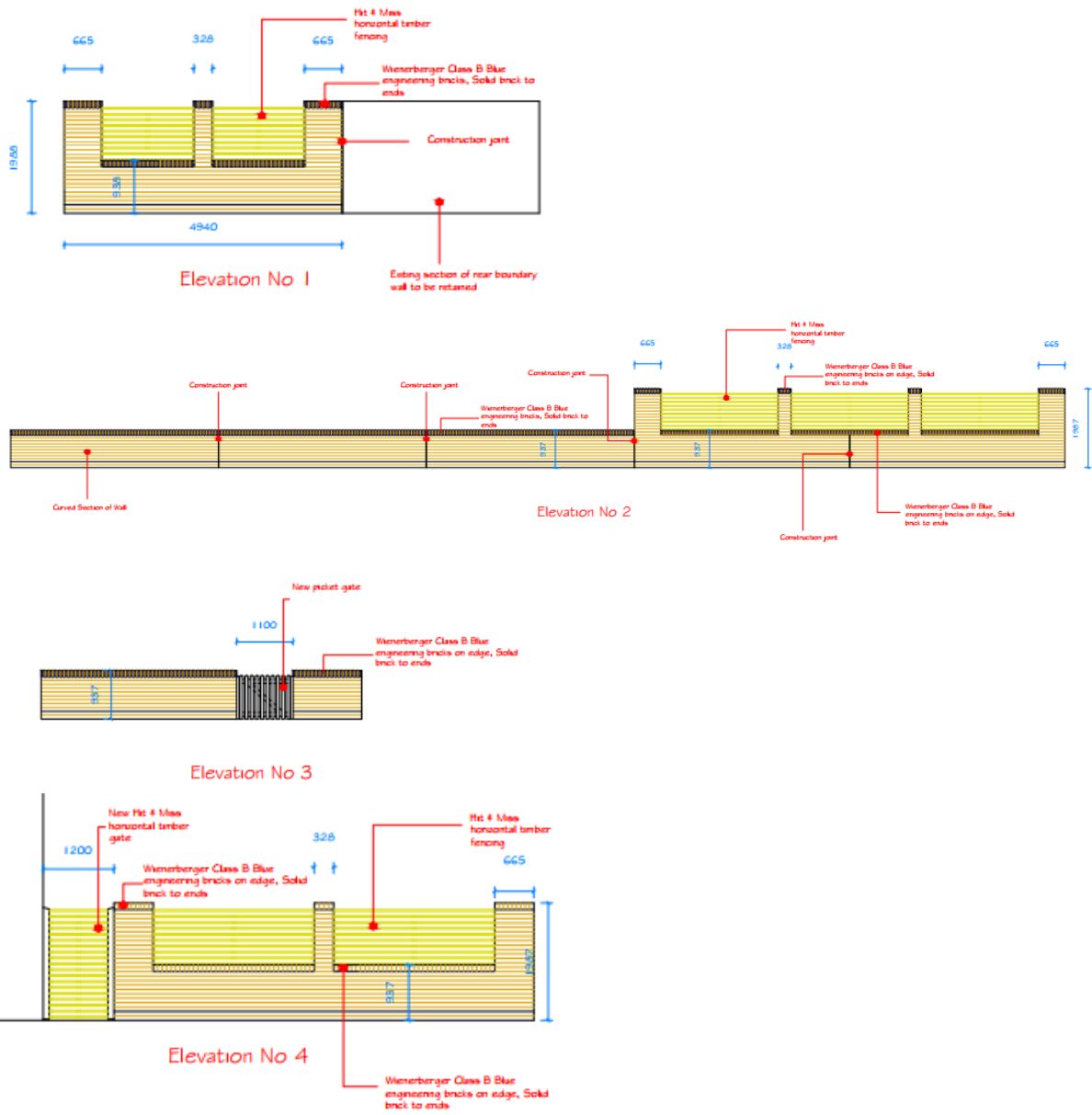
The proposal is a full application for the change of use of grass verge to residential garden, erection of new boundary walls, and the formation of a new dropped kerb.

The grass area proposed for change of use is shown on the annotated existing site plan below with the area shaded yellow (officer's annotation).

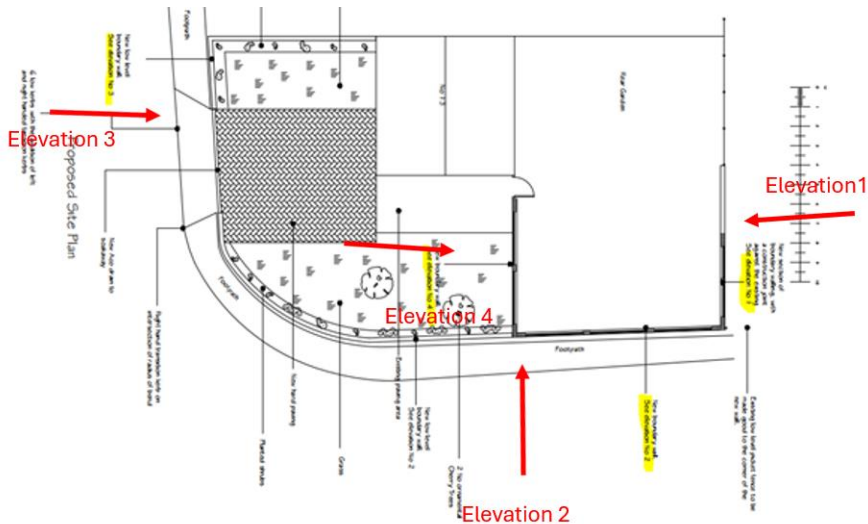


Proposed wall elevations are below - these vary between a low brick wall at a height of approx 1m and a high brick wall at a height of approx. 2m with hit-and-miss horizontal timber

between the brick piers . Location of elevations shown on an extract from the submitted proposed site plan are also included below.



Proposed site plan:



## 6. Planning Policy

National Planning Policy Framework (NPPF)  
 National Planning Practice Guidance (NPPG)  
 National Design Guidance (Planning practice guidance for beautiful, enduring and successful places)

### Wiltshire Core Strategy (2015)

Core Policy 1 – Settlement Strategy  
 Core Policy 2 – Delivery Strategy  
 Core Policy 3 – Infrastructure Requirements  
 Core Policy 26 – Spatial Strategy for the Tidworth Community Area  
 Core Policy 57 - Ensuring High Quality Design and Place Shaping

### Supplementary Planning Documents:

Wiltshire Design Guide

## 7. Summary of consultation responses

### Ludgershall Town Council – Objection

- Concerns over the utility box being on private land
- Concerns over the manhole cover being on private land
- Potential loss of amenity land

### WC Highways – No objection

'I note that the proposed vehicle access has been moved further along the front of the site off the radii of the junction, this is now acceptable.

There is a street sign in the existing verge and a utility box at the back edge of the footway on the edge of the verge which need to be considered. The street sign will require moving and must be repositioned. The new location of this street sign must be agreed as part of the Vehicle Access application what is required for the vehicle crossover and details of how to apply for this is attached as an informative.

I recommend that the fence line is kept behind the utility box as I would expect the cost to move this box prohibitive.

I wish to raise no highway objection providing the following conditions are imposed:

The development hereby permitted shall not be first brought into use until splays have been provided on both its sides of the access to the rear of the existing footway based on coordinates of 2.4m x 2.4m. The splays shall always be kept free of obstruction above a height of 600mm.

REASON: In the interests of highway safety.

The development hereby permitted shall not be first brought into use until the first 2m of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

Notwithstanding the submitted details, the proposed development shall not be first brought into use until means/works have been implemented to avoid private water from entering the highway.

REASON: To ensure that the highway is not inundated with private water.

The vehicle access and parking spaces shall remain ungated.

REASON: In the interests of highway safety.

#### Informatives

The application involves the creation of a new vehicle access/dropped kerb. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on [vehicleaccess@wiltshire.gov.uk](mailto:vehicleaccess@wiltshire.gov.uk) and/or 01225 713352 or visit their website at <http://wiltshire.gov.uk/highways-streets> to make an application.

The applicant is advised that, if it is proposed to drain this development directly into the river or carry out any work within 8 metres of the watercourse then a Land Drainage Consent is required from the Environment Agency. For further information see [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk).

### **8. Publicity**

The application was publicised by neighbour notification to properties immediately adjacent to the site and to the Town Council. No neighbour representations have been received at the time of writing this report but an objection has been received from the Town Council.

### **9. Planning Considerations**

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise. This requirement is reiterated by the NPPF, which is a material consideration in the decision-making process.

#### **9.1 Background**

The application has arisen following the applicant's purchase of the area of grass verge outside of the existing residential curtilage to the side and front of the property. It is understood that Aster Group (Housing Association) formerly owed the grass verge associated with this planning application as well as other land in the vicinity but is selling off parts of the green space. When the applicant purchased the land, it is understood that the land was sold with a covenant which stated the land must be used as part of the residential curtilage. However, planning permission is required for the change of use to include the grass verge within the residential curtilage and also to erect the proposed boundary treatment.

Officers have advised that covenants are separate to planning permission and are not a material consideration in assessing planning applications.

## **9.2 Visual Impact/Impact on the character of the area**

### NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. The NPPF places emphasis on good design, and chapter 12 details achieving well designed places.

Para. 131 states that "the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Para 135 states that - Planning ... decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Para 139 states that "Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surrounding

### National Design Guide

National Design Guide para 40 states that “Well-designed places are: based on a sound understanding of the features of the site and the surrounding context, using baseline studies as a starting point for design; integrated into their surroundings so they relate well to them; influenced by and influence their context positively”

National Design Guide para 43 states that “Well-designed new development is integrated into its wider surroundings, physically, socially and visually. It is carefully sited and designed, and is demonstrably based on an understanding of the existing situation, including: the landscape character and how places or developments sit within the landscape, to influence the siting of new development...patterns of built form... the architecture prevalent in the area, including the local vernacular and other precedents that contribute to local character, to inform the form, scale, appearance, details and materials of new development...”

### Core Strategy

Core Policy 57 states that “a high standard of design is required in all new developments, including extensions... Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality”.

i. enhancing local distinctiveness by responding to the value of the natural and historic environment, relating positively to its landscape setting and the existing pattern of development and responding to local topography by ensuring that important views into, within and out of the site are to be retained and enhanced;

ii. the retention and enhancement of existing important landscaping and natural features, (e.g. trees, hedges, banks and watercourses), in order to take opportunities to enhance biodiversity, create wildlife and recreational corridors, effectively integrate the development into its setting and to justify and mitigate against any losses that may occur through the development;

iii. responding positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines to effectively integrate the building into its setting;

vi. making efficient use of land whilst taking account of the characteristics of the site and the local context to deliver an appropriate development which relates effectively to the immediate setting and to the wider character of the area;

vii. having regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter.)



## Wiltshire Design Guide

Wiltshire Council has also recently adopted a Wiltshire Design Guide (25/03/2024). The Design Guide is structured around the '10 characteristics of 'Good design' as described in the National Design Guide, focusing on local priorities and qualities for Wiltshire. There are three 'golden thread's which underpin the Wiltshire design guidance and support the delivery of the Council's strategic aims ('Health, Wellbeing and Community'; 'Sustainability and Climate Resilience' and 'The right homes in the right places').

Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality and applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire. Development is expected to meet a number of related place shaping and design criteria in the policy and new development should enhance/bring a sense of character to the area as a whole.

## Assessment

The application site is located within a housing estate in Ludgershall that was constructed in the late 1970's/early 1980's. As part of the design for the estate, areas of green verge or amenity land were included within the approved layout. These areas of grassed open space were excluded from the residential curtilages and contribute to the character of the area, giving relief from the built form.

The application site is located in a prominent position on the corner of two roads. The entrance to Old Common Way has an open feel with the grass verge adding to this openness. Throughout the immediate locality, there are a number of areas of open green space which have purposely not been incorporated into residential curtilages. Officers have concerns that to change this use to residential would erode the character of the estate with the inevitable fencing/walls closer to the road and associated domestic paraphernalia further impacting on the character of the area. It would also be difficult to resist other similar proposals. Officers do acknowledge that should change of use to residential curtilage be allowed then permitted development rights could be removed to prevent further erosion of the character and openness; this could include no hardstanding, outbuildings and fences/means of enclosure.

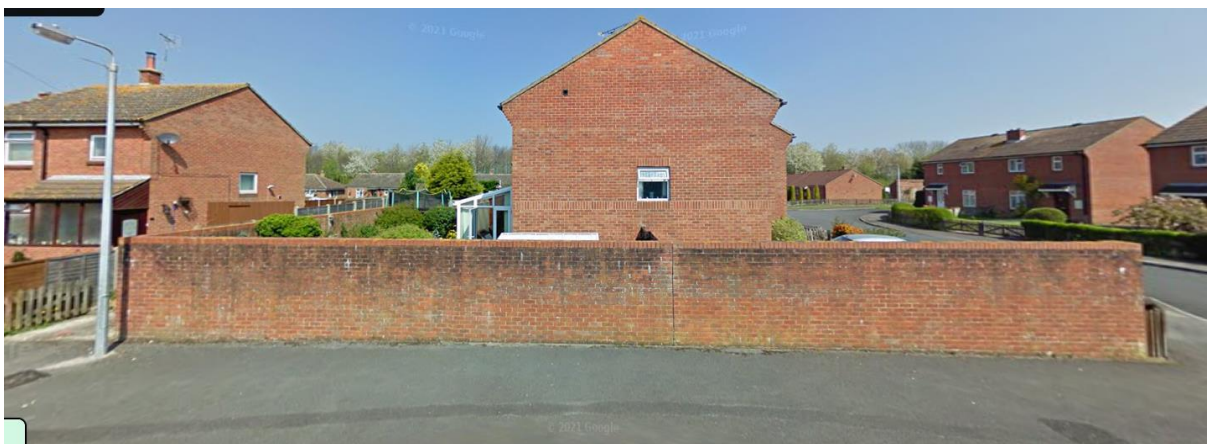
To the front of the property, it is also proposed to enclose the grass strip between the current boundary and pavement. The existing front boundary of the terrace of dwellings which includes 13 Collis Terrace have a similar character with the location of the front fence and grass strip separating the dwellings from the road. It is considered that the erection of a boundary closer to the road and to incorporate the grass strip as well as erecting a wall as per that proposed is at odds with the character of this part of the road and contrary to policy.



The predominant boundary treatment alongside the road or pavements comprises of low picket fences. Whilst there are brick walls of varying heights in the area, these are mainly set back from the road and are not overly prominent. The erection of a 2m high brick wall alongside the pavement edge close to the road would therefore have a visually harmful impact, compounded by the loss of the open green space. Officers are not aware of any other examples of brick with timber hit and miss style fencing in the immediate area; this adds another type of boundary treatment which is at odds with the existing character of the area. Furthermore, the bricks shown on the submitted plans appear to be quite yellowy in colour, again at odds with the more red/brown bricks in the area. That said should the application be approved, a condition can be included to require the brick details to be agreed prior to construction of the wall.

The applicant has cited other properties in the vicinity which they feel have undertaken the same sort of development either through grass verges being incorporated into residential garden or 2m high brick walls alongside the road. The applicant feels that the development proposed is not out of keeping with the local area.

One such example is 20 Old Common Way - see image below taken from Google Maps dated April 2009. Officers cannot find any record of when this wall was built, whether it was part of the original consent or has been added at a later date. It is also not known if any grass verge was incorporated and enclosed into the residential curtilage.



Whilst 20 Old Common Way does have a tall brick wall along side the back edge of the pavement, it is not considered that this is directly comparable to the application site due to its location and context.

The second cited example is 1 Flemming Close – see image below taken from Google maps dated April 2009 which shows a grassed area fenced in. Again, there is no planning history for this site relating to the fence, use of the land or other development.



Again, the above site put forward by the applicant as a reason to grant permission for the proposed development at 13 Collis Terrace is not considered comparable. As mentioned above, it is unknown when the fence was erected however, the design of fence still leaves an open feel to a degree and is very different to the boundary treatment proposed with the current application.

The third cited example is 1 Lady Diana Court. This property is on the opposite side of Old Common Way to the application site and was sold in 2022. Since that time, the grass verge has been incorporated into the residential garden and a picket fence erected. The first image below is taken from Google Maps 2009, which shows the grass verge outside of the then boundary of 1 Lady Diana Court. The second image is the case officer's photo showing the grass area now enclosed with a picket fence.





The works carried out at 1 Lady Diana Court do not have the benefit of planning permission and it is understood that this is now an enforcement matter.

The final example put forward by the applicant is the site on the opposite side of the entrance to Old Common Way. This site is the subject of a current live application (PL/2023/06881) and is yet to be determined. This application shows the retention of soft landscaping in the form of hedges, trees and green space alongside Old Common Way - an extract from the submitted soft landscaping plan is included below.



The above site is not considered to be comparable to the application site; it is a brownfield site which was formerly a residential care home, now demolished, with the above mentioned application for housing under consideration. The site has an existing hedge along its northern edge; this is established and to be retained as well as the trees along the western side of the site. Whilst this site is not technically “open”, it has green emphasis through the soft landscaping and includes a small area of public open space.

Overall, it is considered that the change of use of the open grass verge and incorporation into the residential curtilage, combined with the erection of the proposed boundary treatment is unacceptable for this location since it will create a visually harmful and incongruous addition to the locality which does not preserve or enhance the character of the area.

### 9.3 Residential Amenity

Criteria (vii) of Core Policy 57 (Ensuring high quality design and place shaping) states that new development shall have regard to “...the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy,

overshadowing; vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter)".

The application site is located within an established residential area and surrounded by other residential dwellings. The loss of grass verge is unfortunate but the incorporation of this into the residential curtilage is not considered to adversely affect neighbour amenity.

The erection of the boundary wall raises no particular concerns regarding neighbour amenity except for the section of 2m high wall along the rear boundary of the site adjacent to 2 Old Common Way. Currently 2 Old Common Way which fronts Old Common Way. 2 Old Common Way has a front garden laid to lawn with a low picket fence forming the boundary as shown below. The proposed development will see a 2m high wall forming the boundary with 2 Old Common Way to the front up to the road, essentially replacing the low picket fence. The 2m high wall alongside the boundary in this location is considered to be unneighbourly and will impact on the outlook from the front of this property. However, in this instance the impact on neighbour amenity is not considered to be significant enough to warrant a refusal on neighbour amenity grounds.



#### **9.4 Highway issues**

The application proposes the creation of a dropped kerb and off-road parking space within the front garden of the property. The Highway Authority has been consulted and has raised no objections on highway safety grounds subject to a number of conditions which should be added to any approval.

The Highway Authority has highlighted the requirement to address the relocation of existing signage which is currently located on the grass verge and has also advised that the wall should be located behind the grey utility box.

Had the application been recommended for approval, revised plans would have been sought to show the wall set back behind the utility box and also to include the ungated entrance with the height of the wall within the visibility splay reduced to 0.60m as advised.

In view of the Highway Authority raising no objection on highway safety grounds and the inclusion of an appropriate condition, officers conclude that a reason for refusal on highway grounds would not be sustainable.

### **9.5 Other consideration.**

The area of grass verge proposed to be incorporated into residential garden currently supports a manhole, grey utility box and two separate road name signs. All of these elements bar the manhole will need to be moved. No details of how and when this will be done have been provided although officers note that this will be part of the vehicle access application. However, officers note that should any changes be required to the location of the boundary treatment as a result of these discussions, a revised application would be required.

The applicant has advised that as part of the covenant on the land, access must be maintained to the manhole in case maintenance or works are required.

Officers have been advised that the applicant is concerned that the area of grass is used by dog walkers and sometimes dog mess is left on the grass; this is unfortunate but is not a material planning consideration which can be taken into account when reaching a decision.

The applicant has also advised that if planning permission is not granted, the area of grass if will be left unkept and unmown. This is the applicant's choice and again is not a material planning consideration.

## **10. Conclusion (The Planning Balance)**

The application site comprises an existing dwelling located within an established residential area. The proposal to incorporate an area of open green space within the residential curtilage is considered to have a negative impact on the character of the area through the loss of openness and green space to break up the built form. Whilst officers understand that the land was bought with the knowledge of the covenant which stated the land must be used as residential garden, this is not a material planning consideration but a civil matter between the applicant and former owner. There are genuine concerns that a precedent will be set by granting permission for this proposed development which will in return see the loss of further open green space on the estate to the detriment of the character of the area. Officers object to the design and scale of the proposed wall which is at odds with the prevailing character of the area where picket fence boundary treatments are the primary boundary treatment which have less visual impact. There are no overriding concerns regarding the creation of the dropped kerb and highway safety. There are also no significant concerns regarding neighbour amenity.

## **RECOMMENDATION**

**That planning permission be REFUSED for the following reason:**

The proposed change of use of amenity land (grass verge) to residential garden and its associated enclosure with a tall out of keeping brick wall, would have a detrimental impact on the character and appearance of the area both through the loss of open green space and the incorporation of an incongruous boundary treatment. As such, the development is considered to be contrary to Core Policy 57 parts i, ii, iii, iv and vii of the Wiltshire Core Strategy, which requires development to "create a strong sense of place through drawing on

the local context and being complimentary to the locality". The development is also considered to be contrary to the good design aims of the NPPF (para 131 and para 135), National Design Guide (paras 40 and 43) and advice contained within the Council's Supplementary Planning Guidance (the Wiltshire Design Guide).