

Date of Meeting	28 th February 2024
Application Number	PL/2023/04681
Site Address	5 STUDLEY GARDENS, STUDLEY, CALNE, SN11 9FR
Proposal	Relocation of garden fence
Applicant	Estela Rodriguez Perea
Town/Parish Council	Calne without
Electoral Division	Councillor Ashley O'Neil
Type of application	Householder Planning Permission
Case Officer	James Webster

Reason for the application being considered by Committee

The application has been called to the Northern Area Planning Committee by Councillor O'Neil so as to allow consideration of the proposal in the context of the objections raised by the Calne without Parish Council and the potential design, highway/environmental and relationship to adjoining properties impacts.

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 and to consider the recommendation that the planning permission be granted.

2. Report Summary

This report will examine the proposed extensions and explore the process by which the appropriate conclusion has been reached. It will set out the public benefits which will be obtained as a result of the application and the various impacts which may occur.

The key issues in considering the applications are as follows:

- Principle of development
- Design and scale
- Impact on residential amenity
- Highways and parking

The Parish Council have raised an objection to the proposal as they have concerns over the potential impacts on both the listed buildings and the wider area.

3. Site Description

The application site is located within a relatively newly built housing estate on the north side of the A4 (and immediately opposite Derry Hill) at Studley. Studley Gardens consist of a mix of detached and semi-detached properties with broadly consistent spacing, plot size and relationship with the road frontage. The properties are constructed of reconstituted stone, pantile roofs and a mix of dry-stone wall, estate railing and closed boarded fencing for boundary treatments.

No.5 Studley Gardens is a corner plot, orientated gable onto the main throughfare, with its front door accessed from a private drive type subsidiary road within the development, serving several properties. The boundary to its rear garden is a 1.8m tall close boarded fence, which follows the building line of the property. A c.4m wide strip of incidental grassed land, along with two ornamental flowering cherry trees and shrubs/hedging, is positioned between the fence and the edge of the private drive.

The application has been submitted on the basis that the strip of incidental grassed land is under the control of the applicant.

The road network within the development is private and has not been offered for adoption by Wiltshire Council as it does not have street lighting.

4. Planning History

PL/2023/02026- 5 Studley Gardens, Studley, Calne, SN11 9FR- relocation of garden fence. Refused.

5. The Proposal

Planning permission is sought for the relocation of the existing 1.8m tall close boarded fencing (described as a Jacksons flat top tongue and groove fence) to a position some 2.0m from the edge of the private drive, thereby moving part of the incidental grass strip into the private garden area. The fence is to be moved out approximately 0.8m resulting in approximately 1.3m of hedging remaining. Some of the shrubbery/hedging will be removed, with the two ornamental trees remaining.

The earlier 2023 application sought permission for a repositioning of the fence hard up against the private drive, with none of the shrubbery/hedging to be retained.

6. Local Planning Policy

Wiltshire Council's Core Strategy - Policies CP51, CP57 and CP58
Calne Community Neighbourhood Plan – Policies BE1, BE2 and GA2

7. Summary of consultation responses

Calne without Parish Council: Objection:

"CWPC have considered the revised proposal and have concluded that the amendments do not remove the previous objections submitted. Therefore we would like to restate the objections we gave to the previous proposal.

"CWPC wishes to object to the application and the basis of appearance. layout and highway safety.

When the development originally gained planning permission the Parish Council spend significant time considering the landscaping of the development to ensure that it blends in with the village and didn't look too industrial.

The parish council feels that the plans for this fence would be detrimental to the appearance of the development.

The Council also hold concerns that the fence could introduce a safety issue to pedestrians and cyclists as the line of sight from traffic movements from No.6 Studley Gardens would be obstructed."

Council Highway Engineer – No objection. Confirms that all roads at the development are private and not adopted by the Council as the Highway Authority. There is no street lighting.

8. Representations

One representation received, initially objecting to the proposal, raising concerns over the potential impact upon parking, manoeuvring space, available space for bins and aesthetics of the site.

Subsequent comment received from the same neighbour stating that they had no objections or concerns in relation to the plans. States that they support the proposal.

9. Planning Considerations

Principle of development

The new fencing to be erected relates to an existing residential property, the principle of which is considered to be acceptable. The principle of incorporating incidental landscaping is also considered to be acceptable.

Nevertheless, the ultimate acceptability of the proposal turns on the consequent effect upon the character and appearance of the locality, as assessed against adopted planning policy.

Scale, design and landscaping

Paragraph 131 to the NPPF states:

"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."

Core Policy 57 (CP57) requires that development be of a suitable design and quality for the site and immediate area and sets out fourteen separate criteria which development proposals are required to meet in order to be considered acceptable. CP57 states that:

“...Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality.”

Criterion (iii) of CP57 requires that proposals:

“... respond(ing) 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.”

Analysis of the relevant application submission, reports and documentation for both the original outline (15/10457/OUT) and subsequent reserved matters (RM) (17/03035/REM) applications for the dwellings at Studley Gardens demonstrates the critical importance of: (i) layout, (ii) communal landscaping, (iii) relationship between plot and building line, and (iv) associated fence-lines, to the overall character of the development.

In particular, the original Officer's Report for 17/03035/REM (dated 06/09/2017), confirms that the landscaping scheme was amended during determination with the specific aim of 'softening' the development; it states:

“Landscaping – The applicant have enhanced further the landscape planting and boundary treatments, including new estate railings along the A4 and native Horbeam hedgerow in response to concerns raised regarding the impact of the A4 and the need to soften the development. Areas of meadow have also been incorporated within the larger open spaces and along site boundaries to enhance green links through the development.”

However, at that Committee the proposed landscaping was still considered insufficient and amendments to the proposed plans were deemed to be required. That RM application was then subsequently determined at Committee of 01/11/2017, with the Addendum Report for that application confirming the changes proposed as being:

“Changes made to the layout include: a more informal shared space lane approach (countryside kerbs/verges both sides), including variable widths, where the lane narrows and widens organically with some houses siding on to create pinch points/focal points through the lane. The road width ranges from 6m narrowing down to 4.1m with 2m & 1m verges each side. The revised layout takes account of space in front of plots 3 to 6, with the introduction of grass verges (reducing hard surfacing), 3 no. on street trees to break up parking and changes of the surface treatment to tarmac.”

As such it is apparent that, the 'grass verges' in front of plots 3 to 6, along with the 3no. trees, were specifically introduced to make the landscaping of this development acceptable, in a clear demonstration of responding to the advice set out at paragraph 126 of the Framework in terms of 'creating a better place' to make this development acceptable to the local community.

Accordingly, it is clear that landscaping detail was a fundamental consideration during the determination of the RM details, and for these reasons, the following Condition (as no. 5) was proposed, and attached to, RM Decision Notice 17/03035/REM:

“Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no gates, fences, walls or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site.

REASON: In the interests of visual amenity.”

The earlier 2023 application was found to be unacceptable in the above context, since it repositioned the fencing hard up against the private drive, thereby entirely losing the grassed verge, the shrubbery/hedging (albeit retaining the two ornamental trees) and its consequent “softening” visual effect. In contrast, this new proposal does retain a strip of incidental landscaping, setting back the new fence from the road frontage and retaining a degree of shrubbery and the two ornamental trees.

The use of close boarded fencing to define gardens and boundary treatments is already a feature of the Studley Gardens. Indeed, whilst the majority of the boundary treatments seen across the estate follow the building line of the property they serve, (so that they do not get closer than the property itself), it is not with precedent for close boarded fencing to dog-leg closer to the road frontage, as can be seen at plots 57 and 21. In both cases, and like the proposal under consideration, a degree of incidental landscaping is retained between the road and the fence.

In this particular case, the loss of incidental landscaping is minor and is not considered to undermine the high-quality landscaping sought and achieved at Studley Gardens. The retention of the existing fencing, albeit positioned a few metres closer to the road frontage is not considered to unacceptably change the character and appearance of the locality. As such the proposal is considered to continue to comply with the requirements of CP57(iii) of the Wiltshire Core Strategy and Policies BE1, BE2 of the Calne Community Neighbourhood Plan.

Impact upon amenity

Regarding the amenity of the neighbouring properties in terms of overlooking, loss of light or privacy impacts, the proposed re-location of the fence, is approximately 12m from No 6, 10m from No 7 and 5.5m from No 8. As a result of the distance between the proposed location of the fence it is not considered to result in an unacceptable impact upon the amenity or living conditions of the surrounding occupiers of neighbouring properties. In this respect, the proposal will comply with policy CP57 to the Wiltshire Core Strategy.

Highway safety

It is understood that roads within Studley Gardens development are not adopted by Wiltshire Council as the Highway Authority. The access adjacent to the relocated fence serves a

handful of properties and is not a through road. Bollards allow for pedestrian and cycle access to the A4.

Comments are made by the Parish Council and within the initial representations made by the neighbour in respect of the potential for the relocated fence to reduce visibility and cause a safety issue for pedestrians and cyclists.

However, in the context of the nature of the private drive and low numbers of vehicular movements, the repositioning of the fence is considered minor and would not impede visibility to such a degree that it would cause an unacceptable impact on highway safety. Similarly, there is no evidence to suggest that it would somehow mean that sufficient space would not remain for bin storage. The Council's Highway Engineer has confirmed that they raise no objections to the proposals.

Accordingly, the proposed development is considered to not cause an unacceptable impact on highway safety and will meet with the requirements of policies CP57(xiv) and CP61 to the Wiltshire Core Strategy, policy GA2 to the Calne Community Neighbourhood Plan as well as those set out in section 9 to the NPPF.

10. Conclusion

The retention of the existing fencing, albeit positioned a few metres closer to the road frontage, is not considered to unacceptably change the character and appearance of the locality or cause an unacceptable impact upon the amenity and living conditions of surrounding occupiers. As such the proposal is considered to continue to comply with the requirements of CP57 of the Wiltshire Core Strategy and Policies BE1, BE2 of the Calne Community Neighbourhood Plan.

It is also noted that the Highways Engineer has raised no objection or comment to the proposal. Due to the limited movement of the fence and the absence of an unacceptable impact on highways safety, it is considered that the proposal has complied with the requirements of CP61 of the Wiltshire Core Strategy, policy GA2 to the Calne Community Neighbourhood Plan, and section 9 to the NPPF.

RECOMMENDATION: That Planning Permission be GRANTED, 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 provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Existing Site Block Plan
Proposed Site Block Plan
(Received by LPA 12th June 2023)

Site Location Plan
(Received by LPA 22nd June 2023)

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

3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those detailed on the approved drawings and application form.

REASON: In the interests of visual amenity and the character and appearance of the area.

Informatives

4. The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.
5. The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

6. Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.
7. Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.
8. The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant

form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website <https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy>.