

<b>No.2</b>	<b>APPLICATION NO.</b>	2018/0721/FUL
	<b>LOCATION</b>	Gibbons Barn Plex Lane Halsall Ormskirk Lancashire L39 7JZ
	<b>PROPOSAL</b>	A 1.8 metre tall wooden fence abutting the party wall along the boundary line, to separate the gardens of Gibbons Barn and Gibbons Farm (Retrospective).
	<b>APPLICANT</b>	Kirsty Breakell
	<b>WARD</b>	Halsall
	<b>PARISH</b>	Halsall
	<b>TARGET DATE</b>	17th September 2018

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## **1.0 REFERRAL**

- 1.1 The application was to be determined under delegated powers, however, Cllr Mrs Mills has requested it be considered at planning committee to consider the implications of removal of permitted development rights at the site and issues of privacy.

## **2.0 SUMMARY**

- 2.1 The development is considered to result in harm to the Green Belt and be inappropriate in its setting and therefore conflicts with Policies GN1, GN3 and EN4 in the West Lancashire Local Plan, the NPPF and Design Guide Supplementary Planning Document.

## **3.0 RECOMMENDATION: REFUSE**

## **4.0 THE SITE**

- 4.1 The site consists of a traditional brick and slate former agricultural barn converted to residential accommodation. Vehicular access is provided to the immediate south of the barn with associated residential garden area to the west. A former orchard area exists to the south. The building forms part of a cluster of former farm buildings to the western side of Plex Lane.

## **5.0 THE PROPOSAL**

- 5.1 The application seeks the retention of approx. 48 metres of 1.8 metre high horizontally-slatted fence located to the rear and south-west of the barn on or near the common boundary with Gibbon's Farm (the former farmhouse).

## **6.0 PREVIOUS RELEVANT DECISIONS**

- 6.1 1995/0011 – GRANTED (16.03.1995) Change of use of office to dwelling including elevational changes.
- 6.2 1991/0624 – GRANTED (31.10.1991) Conversion of Barn into offices; associated car parking and alterations to access.

*Adjacent property at Gibbon's Cottage*

- 6.3 1995/0250 – GRANTED (12.05.95) Erection of conservatory at rear and new boundary wall/post and panelled fence, installation of septic tank, including biodisc effluent treatment system and soakaway. Siting of propane tank.

*Adjacent property at Gibbon's Farm*

- 6.4 2013/0842/LDP – REFUSED (15.10.2013) Certificate of Lawfulness - Proposed new security wall to abut existing boundary wall. Allowed on appeal.

**7.0 CONSULTEE RESPONSES**

- 7.1 None applicable

**8.0 OTHER REPRESENTATIONS**

- 8.1 One letter has been received from an immediate neighbour objecting on the following grounds:

Scale disproportionate to surrounding development  
Prominent feature  
Inappropriate to rural setting  
Fire risk  
Bad neighbour development  
Not in accordance with the Local Plan  
In conflict with planning conditions attached to the property  
Other works have taken place on the site  
Development will exacerbate local surface water flooding issues  
No consultation before works took place

**9.0 SUPPORTING INFORMATION**

- 9.1 The applicant has provided a statement in support of the retention of the fence raising the following issues/benefits:

Provides security and prevents unauthorised access  
Is similar to other means of enclosure in the immediate vicinity and beyond  
Views of the fence are limited or obscured  
Provides mutual privacy benefit between neighbouring residents  
An identical means of enclosure could be erected without planning permission by the neighbouring occupiers  
Preventing retention of the fence would contravene Article 8 of the Human Rights Act

Additionally, concerns are expressed in respect to the disparity arising from adjacent properties having permitted development rights removed or retained.

**10.0 RELEVANT PLANNING POLICIES**

- 10.1 The National Planning Policy Framework (NPPF) 2018 and the West Lancashire Local Plan 2012-2027 DPD provide the policy framework against which the development proposals will be assessed.
- 10.2 The site is located within the Green Belt as designated in the West Lancashire Local Plan 2012-2027 DPD (WLLP) and a Mineral Safeguarding Area as defined in the Lancashire Site Allocation and Development Management Policies Local Plan.
- 10.3 Relevant Local Plan Policies:  
GN1 – Settlement Boundaries  
GN3 – Criteria for Sustainable Development  
EN2 – Preserving and Enhancing West Lancashire's Natural Environment

## 11.0 **OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION**

### Background

- 11.1 The development that has taken place would generally be permitted to a height of 2.0 metres under the provisions of the (now) Town and Country Planning (General Permitted Development) (England) Order 2015; however, as a converted rural building, these rights were removed from the property to protect the Green Belt locality and the heritage value of the former traditional agricultural barn. This approach is generally driven by planning policy requirements at the time of conversion and, indeed, is not an uncommon approach when considering equivalent proposals under current national and local planning policy requirements.
- 11.2 Of the group of three residential properties here the application site and Gibbon's Cottage (also a conversion) have the majority of their permitted development rights removed. The original farmhouse retains its rights under the Order.

### Assessment

- 11.3 Planning condition 4 on the approval to convert the building to a residential unit removed some permitted development rights including the erection of means of enclosure at the site. The reason for that restriction is stated as: *The character and location of the property are such that the Local Planning Authority wish to exercise maximum control over future development.* For the reasons set out below I am satisfied that that restriction meets the current tests for planning conditions set out at para 55 of the NPPF and therefore its effect remains valid.

### Principle of Development – Green Belt

- 11.4 Policy GN1 in the WLLP states that proposals in the Green Belt will be assessed against national policy and any relevant Local Plan policies. The NPPF sets out the types of appropriate development in the Green Belt at paras. 145 and 146. For the purposes of assessment, a fence is deemed to be a 'building' as section 336 of the 1990 Planning Act defines a 'building' as including "any structure or erection". The erection of new buildings in the Green Belt is considered inappropriate except for specified exemptions. The proposal would not fall within any of these categories and therefore is considered inappropriate development in the Green Belt.
- 11.5 Inappropriate development in the Green Belt is harmful by definition and should not be approved except in very special circumstances. The NPPF defines that *very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by any other considerations.* It also advises that any harm to the Green Belt should be afforded *substantial weight.*
- 11.6 In addition to the harm arising from inappropriateness, the presence of the fence will result in a loss of openness (generally defined as the absence of built form and development as opposed to any visual matter). In terms of the visual impact para. 141 requires, inter alia, that local planning authorities plan positively to retain and enhance landscapes and visual amenity of the Green Belt. This is assessed in the following paragraphs.

## Design and Appearance

- 11.7 Policy GN3 of the West Lancashire Local Plan DPD 2012-2027 states that proposals for development should be of high quality design and have regard to visual amenity and complement or enhance any attractive attributes and/or local distinctiveness within its surroundings through sensitive design, including appropriate boundary treatment. The Design Guide SPD provides specific guidance in relation to boundary treatment. This states that: *Where new boundary walls are required, their design should match those used elsewhere locally and in particular comprise materials and detailing which relate to the context of the site.*
- 11.8 The principal views of the fence are obtainable from Plex Lane, though these are to some extent obscured by intervening hedging and the barn itself. The dark-coloured timber of the fencing is not particularly intrusive, however, the lighter treatment on the outer side (to Gibbons Farm) is more conspicuous. The fencing is viewed against the backdrop of the cluster of buildings. Whilst there are examples of panel fences erected under permitted development rights in the vicinity, the fencing is not of a type characteristic of a rural area generally or of this locality. The boundary treatment in the local area is characterised by soft landscaping such as hedgerow interspersed with trees. Fencing, where it occurs, is predominantly post and rail/wire style. The fence provides a degree of enclosure not generally found, for example, at a farmstead, and would be more in keeping with an urban or suburban location. On that basis the fencing causes some limited harm to the character and appearance of the Green Belt and locality generally and therefore conflicts with Policies GN1 and GN3 in the WLLP.

## Very Special Circumstances

- 11.9 The applicant has outlined the benefits of the fence in terms of privacy, security, limited visual impact and the disparity due to the fact the neighbour could erect such a fence on the boundary without planning permission. In terms of the disparity arising from the removal of permitted development rights, this is a consequence of previous (and current) policy in relation to permitting the change of use of the building in a Green Belt location and where the building in question is a character building of some historic interest (non-designated heritage asset). Current Green Belt policies and Policy EN4, which maintains a presumption in favour of the protection and enhancement of existing non-designated heritage assets, still require the protection to the Green Belt and the aesthetic of the building and its setting that justifies the removal of the permitted development rights. This and the remaining circumstances taken individually or cumulatively are not considered to constitute very special circumstances – whilst some of the benefits stated might accrue, these could be equally achievable by other, more appropriate, means of boundary enclosure such as thorny hedging.
- 11.10 In summary, I consider the circumstances submitted would not constitute 'very special circumstances' and therefore the harm to the Green Belt by way of inappropriateness, loss of openness and impact on its visual amenity are not outweighed. The fence therefore fails to meet the requirements of Policies GN1 and GN3 of the WLLP

## Impact on adjacent land uses

- 11.11 Whilst the development is not typical of the locality and therefore may visually impose to a greater degree than, say, an established hedge; given its height, position and distance from the neighbouring properties, I do not consider it results in any significant detrimental impact to residential occupiers of those properties. Concern has been expressed by the occupier of Gibbons Farmhouse in respect of fire risk and additional flood risk caused by

the fence, however, I consider this of very limited weight in the planning consideration. The fence, in itself, will cause flooding or displace flood storage capacity of any significance. The fence is as likely to catch fire as any vegetation in the locality. Other matters raised by the objector that have not been addressed above are not considered material to the consideration of the planning application.

#### Other Matters

- 11.12 Concern is stated that any requirement to remove the fence would breach the applicant's human rights to privacy under Section Article 8 of the Human Rights Act. In this particular case the applicant's right to privacy must be balanced against the Council's duty to protect the Green Belt and visual amenity of this rural area.

#### Summary

- 11.13 The proposed development is considered inappropriate development in the Green Belt that results in harm by virtue of its inappropriateness, loss of openness and impact on its visual amenity. The development therefore conflicts with Policies GN1 and GN3 in the WLLP, the NPPF and the West Lancashire Design Guide SPD.

### 12.0 **RECOMMENDATION**

- 12.1 That planning permission be **REFUSED** for the following reasons:

#### **Reasons for Refusal**

1. The development conflicts with the NPPF and Policies GN1 and GN3 in the West Lancashire Local (2012-2027) Development Plan Document in that it constitutes inappropriate form of development in the Green Belt and results in harm to the openness and visual amenity of the Green Belt. No very special circumstances have been demonstrated to outweigh the identified harm.
2. The fence conflicts with policy GN3 and EN4 of the West Lancashire Local Plan (2012-2017) Development Plan Document and Supplementary Planning Document - Design Guide in that it is an incongruous feature in the context of the setting of the traditional rural building and wider group of former farmstead buildings which results in a detrimental impact to the visual amenity and rural character of the area and the setting of a non-designated heritage asset.