

No.3	APPLICATION NO.	2019/0101/FUL
	LOCATION	Land Rear Of North Moor Cottage North Moor Lane Halsall Lancashire
	PROPOSAL	New boundary fence and site access gate located at the entrance to the new residential development situated on North Moor Lane.
	APPLICANT	Oakwood Construction
	WARD	Halsall
	PARISH	Halsall
	TARGET DATE	1st April 2019

1.0 **REFERRAL**

- 1.1 The application was to be determined under delegated powers, however, Cllr Mrs Mills has requested it be referred to Planning Committee to consider the issues of impact on highway safety, loss of amenity for neighbours and impact on street scene/greenbelt.

2.0 **SUMMARY**

- 2.1 The proposed development of a screen fence and gates constitutes an inappropriate form of development in the Green Belt giving rise to harm to it by virtue of inappropriateness, loss of openness and loss of its visual amenity. The applicant's submission that it is required for security purposes is not considered to amount to very special circumstances that outweigh the identified harm. The development therefore conflicts with Policies GN1 and GN3 in the West Lancashire Local Plan. The scale and design of the fence are not considered to be in keeping with the predominant local rural character and would result in a loss of local visual amenity in conflict with Policy GN3. Furthermore, the fence would be located within the root protection areas of protected trees and it has not been demonstrated that development would not cause damage to trees of recognised amenity value; the proposals are therefore in conflict with Policy EN2 in the West Lancashire Local Plan.

3.0 **RECOMMENDATION: REFUSE**

4.0 **THE SITE**

- 4.1 The site is located to the north-east of the junction of Halsall Road and North Moor Lane some 720 m outside the Rural Sustainable Village of Halsall; it has an area of approx. 0.33 hectares and is currently under redevelopment to provide five detached dwellings with associated gardens, accesses and vehicle manoeuvring areas. The site is located behind and between residential units located on Halsall Road and North Moor Lane, Halsall. The site boundaries feature some established hedging and trees including trees subject of a Tree Preservation Order to the North Moor Lane frontage. Permitted development rights relating to means of enclosure were removed from the land under Condition 3 of commenced permission ref. 2017/0693/FUL.

5.0 **THE PROPOSAL**

- 5.1 The application seeks the erection of a 1.5 metre high horizontally-slatted fence, 2.2 m high, remotely controlled, solid timber gates spanning about 6 metres between 2.25 m high brick piers and a 2.2 m high pedestrian access gate set approx. 5 to 7 metres back from the highway edge on the North Moor Lane frontage.

6.0 PREVIOUS RELEVANT DECISIONS

- 6.1 2017/0693/FUL GRANTED (15.12.17) Demolition of all existing buildings and the erection of 5 no. detached dwellings (Class C3) with associated garages, parking and garden curtilages, partly accessed (4 dwellings) via a new access off North Moor Lane, and partly accessed (1 dwelling) via an existing access off Halsall Road.

7.0 CONSULTEE RESPONSES

- 7.1 None received.

8.0 OTHER REPRESENTATIONS

- 8.1 None received.

9.0 SUPPORTING INFORMATION

- 9.1 The applicant has provided a design statement in support of the proposal.

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

Supplementary Planning Document, Design Guide (Jan 2008)

11.0 OBSERVATIONS OF DIRECTOR OF DEVELOPMENT AND REGENERATION

Principle of Development – Green Belt

- 11.1 For the purposes of the Green Belt assessment the NPPF does not define “building”, but section 336 of the 1990 Act defines the term as including “any structure or erection”. Therefore, consistent with the approach of the Planning Inspectorate in a recent appeal case, the Council has assessed the fence as a building. 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. The erection of new buildings in the Green Belt is considered inappropriate except for specified exemptions. One exception is that of the partial or complete redevelopment of previously developed land (PDL) which would not have a greater impact on the openness of the Green Belt than the existing development.
- 11.2 The 'existing' development has now been removed, however, its detail is recorded under the 2017 permission for the site's redevelopment. For the purposes of assessing and comparing the impact on openness, the volume of development is generally relied upon, however not exclusively as the NPPG definition of previously developed land advises that

it should not be assumed that the whole of the curtilage of the PDL should be developed. This suggests that areas previously free from development should remain so.

- 11.3 In terms of volume comparison, the approved scheme resulted in a slight benefit having an overall lower volume of built form than originally on site. However, the area of the proposed fence and gates was free from development and presented as an open frontage. The erection of a built high screen boundary treatment across this frontage will inevitably cause a loss of openness on this part of the site. I therefore consider the proposal would not fall within any of the Green Belt exception categories and is therefore inappropriate development in the Green Belt.
- 11.4 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*.
- 11.5 In addition to the harm arising from inappropriateness, the presence of the fence will result in a loss of openness. Furthermore, in terms of the visual impact of the development, 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

- 11.6 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*.
- 11.7 The principal views of the fence and gates would be from North Moor Lane. There are a number of boundary types in this locality including a high suburban style wall and panel fence on the adjacent site to the west, and a more recently constructed high wall and gates at 'The Old Telephone Exchange' on the opposite side of the road. Neither of these means of enclosure appears to have the benefit of planning permission. Elsewhere, the boundary treatments are more rural in character being primarily hedges or low walls or fences, although there are examples of less characteristic enclosures erected under permitted development rights. The type of fencing and gates proposed here are primarily aimed at screening and preventing access. Despite being set back from the road edge by several metres the proposed boundary treatment would serve to 'enclave' the residential development and therefore reduce its active contribution to the streetscene in this part of North Moor Lane. Given the fencing is not of a type characteristic of a rural area generally I consider this would fail to meet the requirements of Policy GN3 in terms of visual amenity and GN1 insofar as it relates to protecting the visual amenity of the Green Belt.

Very Special Circumstances

- 11.8 The applicant has submitted the application predicated on security concerns. Whilst the proposed gates would clearly have the effect of preventing vehicular access this could be equally achieved through more appropriately designed rural-style gates. In terms of

personnel access, the proposed timber fence would create little obstruction to a willing trespasser (indeed, far less than a more appropriate thorny hedge). I do not consider the security argument to constitute very special circumstances and therefore the harm arising from inappropriateness, loss of openness and impact on visual amenity cannot be outweighed. The proposals therefore fail to meet the requirements of Policies GN1 and GN3 of the WLLP.

Impact on adjacent land uses

- 11.9 Other than general visual amenity I do not consider the proposal would result in any significant detrimental impact on nearby land uses.

Trees

- 11.10 The proposed fence and gates fall within the root protection zones of three trees on the North Moor Lane frontage, two of which are subject to a Tree Preservation Order. The line of the enclosure would also potentially prejudice the long term health of two trees to be planted in lieu of two unlawfully felled trees close to approved access point. No assessment detail of the potential impact has been provided in respect of the future health of existing and proposed trees, therefore the requirements set out in Policy EN2 of the WLLP in relation to trees with amenity value have not been met.

Highways

- 11.11 The proposed gates are set back from the edge of the North Moor Lane carriageway by about six metres. This would give sufficient space for a large family car to pull off the highway and avoid obstruction of the highway and is considered acceptable in this location. However, I have some concerns over the use of remotely controlled gates and consequent accessibility for emergency services and service vehicles. In this instance no detail of how the site will be serviced have been provided and in the event access cannot be readily gained there is likely to be knock-on effects. In terms of waste collections this has potential for bins being stored outside the line of the boundary fence. In the absence of any defined area for temporary storage this has potential to either impede access and/or require additional hardstanding within the existing (or proposed) root protection zones. In either instance the applicant has not demonstrated the requirement in Policy GN3 to incorporate suitable and safe access and/or the respective potential effect on trees in conflict with Policy EN2.

Summary

- 11.12 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. Furthermore, it has not been demonstrated that the development will not result in damage to trees or that the site is capable of being appropriately serviced. The development therefore conflicts with Policies GN1, GN3 and EN2 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. By virtue of their siting, scale and design the development constitutes an inappropriate form of development in the Green Belt resulting in harm by virtue of inappropriateness, loss of openness and loss of visual amenity to the Green Belt and, in the absence if very

special circumstances to outweigh that harm, conflicts with Policies GN1 and GN3 in the West Lancashire Local Plan (2012-2027) Development Plan Document and Section 13 of the National Planning Policy Framework.

2. By virtue of their scale and design, the proposed fence, gates and piers conflicts with policy GN3 of the West Lancashire Local Plan (2012-2017) Development Plan Document and Supplementary Planning Document - Design Guide in that they would present as a suburban form of development that fails to respect the visual amenity and rural character of the area.
3. The proposed development conflicts with Policy EN2 in the West Lancashire Local Plan (2012-2027) Development Plan Document in that the applicant has not demonstrated that the development could be provided without harm or damage to nearby trees (including trees subject of a Tree Preservation Order).
4. The proposed development fails to demonstrate suitable access and service arrangements and therefore conflicts with Policy GN3 in the west Lancashire Local Plan (2012-2027) Development Plan Document.