

20/02715/FUL

Applicant Dr David Levy

Location 1 Dorset Gardens, West Bridgford, Nottinghamshire, NG2 7UH

Proposal Erection of new boundary brick wall and piers to the front of nos. 1 and 3 Dorset Gardens (Retrospective) (Resubmission).

Ward Compton Acres

THE SITE AND SURROUNDINGS

1. The application relates to two neighbouring detached properties (no. 1 and 3 Dorset Gardens) on a residential estate road in the Compton Acres area of West Bridgford. The southernmost property, no 3, lies on a corner plot on the junction of Dorset Gardens and Rugby Road.

DETAILS OF THE PROPOSAL

2. Retrospective planning permission is sought for the erection of a brick wall along the front boundary of no. 1 and 3 Dorset Gardens. The wall runs for a distance of approximately 20 metres along the Rugby Road frontage of the properties and is 1.1 metres high with intermittent brick piers of 1.32 metres high. A lower, 0.6 metre high, section of wall lies at the southern end to allow sufficient visibility into the entrance of the shared driveway of the two properties, which lies off Dorset Gardens.

SITE HISTORY

3. 20/01252/FUL - Erection of new boundary brick wall and piers to the front of nos. 1 and 3 Dorset Gardens (retrospective). Application withdrawn 31 July 2020.
4. 91/00055/A4P - Substitution of house types Plots 211,213, 215-219, 222. Approved 18 February 1991.
5. 90/00760/A4P - Construct 62 houses (Revised Proposal). Approved 25 September 1990.
6. 88/00756/A4P - Erection of 108 detached houses (Reserved Matters). Approved 27 October 1988.
7. 81/00328/CENTRA - Residential development with local shopping centre, primary school and open space (outline). Approved 11 September 1981.

REPRESENTATIONS

Ward Councillors

8. One Ward Councillor (Cllr A Phillips) objects and makes the following comments; *“My views on this resubmission application have not changed. It is disappointing that the applicant decided to build the wall without submitting a planning application until after the wall had been built. If they had I’m sure the planning officers would have been able to explain that the wall is not acceptable. It is not in keeping with the street scene or with the open areas around Compton Acres which are characteristics of the estate. This application should not be allowed just because it is a retrospective application or the fact that Highways don’t have a problem with it. For the reasons already mentioned above this wall should never have been built and should be totally removed and the area returned to its former open area which are common characteristics of Compton Acres, and in keeping with the street scene. If it is allowed it sets a precedent for others to build without consent too. I object to this application but as always I am happy to discuss with the case officer.”*
9. One Ward Councillor (Cllr G Wheeler) objects and makes the following comments; *“I have discussed this resubmission with Cllr Phillips. Suffice to say I entirely agree with his comments. The open aspect must be preserved. The boundary brick wall is not in keeping with the street scene.”*

Town/Parish Council

10. The site is within an unparished area.

Statutory and Other Consultees

11. Nottinghamshire County Council as Highways Authority has advised that there are no objections to the application.

Local Residents and the General Public

12. 13 neighbouring properties have been individually notified. One public representation has been received. In summary the following comments are made:
 - a. Compton Acres is an 'open plan' estate and there should be no walls or fences on the front gardens. If retrospective planning permission is given to this application, then it paves the way for many other front gardens to be hidden behind walls and fences losing the openness of the estate.
 - b. The wall has added a very hard feature to the view of Rugby Road and it affects the street scene. It looks brutal compared to the soft shrubs, trees and grass that were removed.
 - c. Visibility for drivers has been greatly reduced compromising the safety of the many school children that walk and cycle in the area.

PLANNING POLICY

13. The Development Plan for Rushcliffe consists of the Rushcliffe Local Plan Part 1: Core Strategy (LPP1) and the Rushcliffe Local Plan Part 2: Land and Planning Policies (LPP2). Other material considerations include the National Planning Policy Framework (2019), the National Planning Practice Guidance and Supplementary Planning Documents (SPD's).

Relevant National Planning Policies and Guidance

14. The relevant national policy considerations for this proposal are those contained within the 2019 National Planning Policy Framework (NPPF) and the proposal should be considered within the context of a presumption in favour of sustainable development as a core principle of the NPPF. The following sections of the NPPF are relevant to this application.
 - Section 12 - Achieving well-designed places.

Relevant Local Planning Policies and Guidance

15. The following policies of the Rushcliffe Local Plan Part 1: Core Strategy (2014) are considered relevant to this application:
 - Policy 1 - Presumption in Favour of Sustainable Development
 - Policy 10 - Design and Enhancing Local Identity
16. The following policies of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) are considered relevant to this application:
 - Policy 1 - Development Requirements.
17. The Rushcliffe Residential Design Guide SPD (2009) provides general guidance on the layout, form and design of development.

APPRAISAL

18. Retrospective planning permission is sought for a front boundary wall which has been erected across the neighbouring properties at no. 1 and 3 Dorset Gardens, two detached residential properties served by a shared driveway on a relatively modern residential estate.
19. It is noted that the height of the wall at the entrance to the driveway from Dorset Gardens is 0.6 metres high for a distance of 1.1 metres, in order to provide sufficient visibility for drivers exiting the site and avoid any undue hazard to pedestrians. This is in line with Nottinghamshire County Council '6Cs Design Guide' and, as a result, there are no objections to the proposal from County Council Highway Officers. The main issue in relation to the application is, therefore, the impact of the wall on the character and appearance of the area.

20. LPP1 policy 10, Design and Enhancing Local Identity, states that development should make a positive contribution to the public realm and sense of place and should have regard to the local context and reinforce valued local characteristics. This is reinforced under policy 1 of the LPP2, which also states that development should be sympathetic to the surrounding area.
21. In this case it is noted that the estate was originally designed as an 'open plan' estate. To ensure this aspect was subject to controls for the future, a condition was placed on the original permission for the overall development (90/00760/A4P) which states; "*No additional fences, walls, hedges or other means of enclosure shall be erected or planted which projects beyond the wall of any dwelling houses which front on to a highway, footpath or access drive, other than those approved layout without the prior approval of the Borough Council*".
22. The above condition does not necessarily preclude the enclosure of open areas forward of a dwelling, however, it provides control over such development so that each case can be considered on its individual merits. The applicant has advised that originally it was proposed only to replace the driveway, however, it became apparent during these works that the roots of the trees and shrubs on the boundary would also have impacted upon the new tarmac. A new boundary was therefore required.
23. Historic photos indicate that there was previously a landscaped strip with some hedging, trees and shrubs running along the front of the two properties and separating them from the pavement. It can be argued that the construction of the front boundary wall undoubtedly presents a harsher boundary treatment and runs against the principles of the original permission for the estate. The views of the local Ward Member are therefore acknowledged in this respect. However, it is also considered in this case that the frontage of the properties still retains an open aspect, due to the large driveway area to the front. With the majority of the wall at 1.1 metres high, it is also relatively low in terms of height which mitigates the visual impact and sense of enclosure.
24. There are also a number of brick boundary walls in place around the estate. These appear to mainly form rear or side boundaries to properties, however, they nevertheless form the boundaries to the pavement. The wall as built has been constructed with brick which complements the main dwellings and appears to have generally been constructed to a high quality. It is therefore considered that as built the wall is not out of keeping with the surrounding area.
25. It is therefore considered that the impact on the visual amenity of the residential estate is not sufficiently detrimental to justify a refusal of retrospective planning permission or to justify enforcement action.
26. One of the Ward Councillors has suggested that; "*This application should not be allowed just because it is a retrospective application...*" and that if the applicant had submitted an application before building the wall; "*...I'm sure the planning officers would have been able to explain that the wall is not acceptable.*" The fact this application seeks permission retrospectively has no

bearing on the assessment of the proposal. The National Planning Practice Guidance makes it clear that a retrospective application should be considered in the normal way, i.e. as if the development had not already taken place. Furthermore, whilst the Borough Council does not condone this situation, the planning system should not be used punitively, i.e. permission should not be refused purely because the development has been undertaken without planning permission.

Conclusion

27. The front boundary wall is not considered to result in significant harm to the character and appearance of the application site and the surrounding residential estate. It is therefore considered that the proposal accords with the relevant planning policies and the application is recommended for approval.
28. The application was subject to pre-application discussions and the details submitted are considered to result in an acceptable proposal.

RECOMMENDATION

It is **RECOMMENDED** that planning permission be granted subject to the following conditions:

1. The development hereby permitted shall be retained in accordance with the following approved plans:

Site Location Plan, dated as received 5 November 2020
Block Plan, dated as received 6 November 2020
and the as built photographs submitted with the application.

[For the avoidance of doubt having regard to policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy and policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]