

<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	HH/2019/0121
<b>Site:</b>	26 Warwick Avenue
<b>Ward:</b>	Earlsdon
<b>Proposal:</b>	Erection of 2m high railings and pedestrian gate to the front garden area; 'Privacy Screen' and rear / side boundary fence.
<b>Case Officer:</b>	Emma Spandley

## SUMMARY

The principle of development is acceptable as the proposal accords with Policy DE1 by providing a good level of design. The proposals will not have a detrimental impact on the occupiers of neighbouring properties. The parking for the existing property will remain unaltered as part of this application.

## BACKGROUND

The site is a bungalow in residential use, located on the east side of Warwick Avenue. The Kenilworth Road Conservation Area boundary is to the west of Warwick Avenue, therefore, the application site is not located within the Conservation Area.

## KEY FACTS

<b>Reason for report to committee:</b>	This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as representations have been received from occupiers of five residential properties.
<b>Current use of site:</b>	Residential Dwelling
<b>Proposed use of site:</b>	Residential Dwelling

## RECOMMENDATION

Planning committee are recommended to grant planning permission subject to the conditions listed at the bottom of the report.

## REASON FOR DECISION

- The proposal is acceptable in principle.
- The proposal will not adversely impact upon highway safety.
- The proposal will not adversely impact upon the amenity of neighbours.
- The proposal accords with Policies: DS3 & DE1 of the Coventry Local Plan 2016, together with the aims of the NPPF.

## BACKGROUND

### **APPLICATION PROPOSAL**

The application seeks to erect 2m high railings and a pedestrian gate to enclose the front garden area of No.26 Warwick Avenue. The railings and gate will be set 6.8m back from the edge of the public footpath. No.26 and No.24 Warwick Avenue are set back 21 metres from the highway, whereas No.28 & No.22 are set only 6 metres back from the highway. Therefore, the proposed gates will be on a similar alignment to the front elevation of No.28 Warwick Avenue. From these gates to the front elevation of the application property and therefore, also No.22 Warwick Avenue there is a 15.5m separation distance. Within the enclosed area, a 'privacy' fence will be erected which will run parallel with the side elevation of No.28 Warwick Avenue. The 'privacy' fence will afford access for the neighbouring property for maintenance etc.

The application also proposes to erect a close boarded fence along the side boundary of No.28 and No.26 Warwick Avenue. The fence will extend to 2m above the existing decking located within the rear garden of No.28 Warwick Avenue. This is to ensure there is no overlooking into the side, habitable room window within the application property from people standing on the neighbouring properties decking.

### **SITE DESCRIPTION**

The application property is a single storey detached dwelling, which is set back from the highway by 21m. The neighbouring property No.24 Warwick Ave also benefits from a similar setting. However, Nos. 22 & No.28 Warwick Avenue are set only 6 metres back from the highway.

No.24 & No.26 Warwick Avenue are anomalies within the street scene. The majority of the other properties on this side of Warwick Avenue (evens), are set closer to the road and retain at least a 6m gap to the back edge of the pavement.

The properties on the other side of the road (odd) are located within the Kenilworth Road Conservation Area, are mainly large detached dwellings characterised by the abundance of dense shrub and tree planting to frontages, creating a bosky and verdant character.

### **PLANNING HISTORY**

HH/2018/2699 - Erection of 2m high railings and pedestrian gate to the front garden area; 'Privacy Screen' and rear / side boundary fence, refused:-

*"The proposed fence to the rear, by means of its siting, will cause demonstrable harm to the occupiers of No.28 Warwick Avenue by increased visual intrusion and by creating an oppressive outlook, contrary to Policy DE1 & DS3 of the Coventry Local Plan 2016."*

The Committee indicated at the meeting that a fence which measured no more than 2m above the height of the neighbouring properties, No.28 Warwick Avenues, existing decking would be acceptable, as this is the height that is allowable under permitted development and is considered an acceptable level of harm.

### **POLICY**

#### **National Policy Guidance**

National Planning Policy Framework (NPPF). The new NPPF published on 24 July 2018 and updated in February 2019 sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that is relevant, proportionate and necessary to do so. The new NPPF increases the focus on achieving high quality design and states that it is "fundamental to what the planning and development process should achieve".

The National Planning Practice Guidance (NPPG) 2014 onwards, this adds further context to the NPPF and it is intended that the two documents are read together.

## **Local Policy Guidance**

The current local policy is provided within the Coventry Local Plan 2016, which was adopted by Coventry City Council on 6<sup>th</sup> December 2017. Relevant policy relating to this application are:  
Policy DS3: Sustainable Development Policy  
Policy DE1: Ensuring High Quality Design

## **Supplementary Planning Guidance/ Documents (SPG/ SPD):**

SPG Extending Your Home

## **CONSULTATION**

Everyone who was notified and / or commented on the previous application have been notified. 5 letters of objection has been received,

Within the letters received the following material planning considerations were raised:

- a) Overbearing impact on the occupiers of No.28 Warwick Avenue;
- b) Out of character with the area.

Within the letters received the following non-material planning considerations were raised, these cannot be given due consideration in the planning process:

Boundary disputes;

- c) Boundary disputes;
- d) Right of Access;
- d) Covenants;
- e) Easements over land;
- f) Party Wall matters;

## **APPRAISAL**

The main issues in determining this application are the impact upon the character of the area and the impact upon neighbouring amenity.

### **Impact on character of the area / visual amenity**

Policy DE1 of the Local Plan seeks to ensure high quality design and development proposals must respect and enhance their surroundings and positively contribute towards the local identity and character of an area.

The National Planning Policy Framework, paragraph 127 states that "Planning policies and 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.

The NPPF further states (at paragraph 130) "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)."

The bungalows, No.26 & No.24 are set back a considerable distance from the highway (21m), the proposed railings will be set back over 6m from the back of the pavement. The distance from the proposed railing to the back of the pavement is similar to that, from the front of No.28 to the back of the pavement. Therefore, the gap retained to the frontage is similar to that gap to the front garden areas of the majority of the properties located on this section of Warwick Avenue, which is the prevailing character. Members of Planning Committee before, did not object to this aspect of the proposal when it was heard at the Planning Committee meeting dated 13<sup>th</sup> December 2018.

The bungalows No.26 & No.24 are an anomaly within the street.

The existing 2m high hedge to the shared boundary will be retained, with the railings set behind the hedging, therefore the proposed railings will be largely screened from view by the existing hedging. The hedging will be conditioned to be retained, as shown on the proposed drawing (all sides to the front garden area).

Notwithstanding the retention of the hedging to the front garden area; even without this hedging retained the railings and gate would be acceptable due to the considerable set back from the road.

It is therefore considered, that 2m high railings within this location, set back 6 metres from the pavement, with the retained hedging will not cause harm to the character of the area by introducing an incongruous feature within the street scene, furthermore, the railings and fencing will not harm the setting of Kenilworth Road Conservation Area. For the reasons outlined above, the development is in accordance with the aforementioned policy.

### **Impact on residential amenity**

The Supplementary Planning Guidance 'Extending your Home' states extensions or new development should not breach a 45 degree sightline taken from the middle of the nearest habitable room windows taken from the neighbouring property.

The proposed railings will be set on a similar building line as the front of No.28, therefore, it will not breach a 45 degree sightline taken from the middle of the nearest habitable room taken from No.28. The windows within the side elevation of No.28 are either secondary windows or non-habitable windows. However, as the railings are open, by their very nature, the impact of the railings is lessened.

No.22 is set back from the road, similar to the application property, therefore, due to the siting and the existing dense shrub planting along the boundary, the proposed railings will not have a negative impact on the occupiers of No.22.

The existing hedge planting to the shared boundaries will be retained, which will mean, the railings will be shielded from view largely by the existing hedge planting.

Turning to the proposed boundary treatment to the shared, side boundary with No.28 and the application property.

As mentioned previously, due to the unique site characteristics, No.28's front elevation is set 15m in front of the application property. The side elevation of the application site runs along the shared,

side boundary with No.28. No.28's rear elevation is roughly level with the front elevation of the application property.

At the previous Committee meeting on 13<sup>th</sup> December 2018, Committee refused the erection of a fence in this location which exceeded 2ms in height along the side shared boundary with No.28 and the application property. No.28 have erected decking within their back garden which projects from their rear elevation, along the side shared boundary with the application property.

Under Permitted Development<sup>1</sup> a householder can erect a 2m high boundary fence without requiring formal planning permission. This is considered an acceptable level of harm.

The application seeks permission for a fence that will be 2.4m high when measured from the application property (26 Warwick Avenue), but, will only be 2m high when measured from the existing decking at No.28 Warwick Avenue.

Taking all of the above into account, it is considered that the proposal will not cause demonstrable harm to the occupiers of the adjacent properties, No.28 & No.22 through increased visual intrusion or loss of light.

### **Other Matters**

The objection submitted is concerned with private land and boundary disputes between the two neighbours, No.28 & No.26.

No.28 has a benefit of easements and rights to access for maintenance to their property over No.26's property and land.

Reference has been made in this report to easements and restrictive covenants that might effect this proposed development; these are private law rights and as a consequence are not material to this application and should not be considered and taken into account when reaching a decision in relation to this application.

### **Conclusion**

The proposed development is considered to be acceptable in principle and has been designed so that it will not result in any significant impact upon neighbour amenity or the character of the area, subject to relevant conditions. The reason for Coventry City Council granting planning permission is because the development is in accordance with Policy DE1 of the Coventry Local Plan 2016, together with the aims of the NPPF.

### **CONDITIONS:/REASON**

1. The development hereby permitted shall begin no later than three years from the date of this permission.

**Reason:** *To comply with Section 91 of the Town and Country Planning Act 1990.*

2. The development hereby permitted shall be carried out in accordance with the following approved documents:  
Proposed New Boundary Fence & New Railings / Gate - Plans and Elevations - 18.8215.GA.001d  
Proposed Rear Fence & Trellis Elevations - Drawing No.18.8215.SK.101c

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

3. The existing hedge(s), tree(s) and shrub(s) indicated on the approved plans to be retained shall not be cut down, grubbed out, topped, lopped or uprooted without the

written consent of the local planning authority. Any tree(s) or shrub(s) removed without such consent or dying, or being severely damaged or diseased or becomes, in the opinion of the local planning authority, seriously damaged or defective, within five years from the substantial completion of development shall be replaced, as soon as practicable with tree(s) and shrub(s) of such size and species details of which must be submitted to and approved by the local planning authority. All tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 - Transplanting Root-balled Trees and BS4428 - Code of Practice for General Landscape Operations (excluding hard surfaces).

**Reason:** *To ensure a satisfactory standard of appearance of the development in the interests of the amenities of the locality in accordance with Policy DE1 of the Coventry Local Plan 2016.*

4. The hard surface in relation to the off-street car parking within the curtilage of the property shall be made of permeable materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the house and such provision shall be retained thereafter.

**Reason:** *To ensure that a satisfactory means of drainage is provided such as to minimise flooding and which promotes and maintains the good stewardship of the natural and built environment in accordance with Policies EM4 and HW1 and DS3 of the Coventry Local Plan 2016.*