

MEETING:	PLANNING COMMITTEE
DATE:	5 OCTOBER 2016
TITLE OF REPORT:	162018 - TO ENABLE 15 METRES OF PANEL FENCE TO BE RETAINED WITH A HEIGHT OF 2.60 METRES (RETROSPECTIVE) AT THE SPINNEY, BURGHILL, HEREFORD, HR4 7RN For: Mr Catchpole, The Spinney, Burghill, Hereford, Herefordshire HR4 7RN
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162018&search=162018
Reason Application submitted to Committee – Redirection	

Date Received: 23 June 2016

Ward: Queenswood

Grid Ref: 347761,244588

Expiry Date: 5 September 2016

Local Member: Councillor PE Crockett

1. Site Description and Proposal

- 1.1 The Spinney is an extended semi-detached split level property occupying an inconspicuous, set back location behind properties known as The Rowan and Helmsdale, Burghill.
- 1.2 It is accessed via a long private drive that runs between the abovementioned properties.
- 1.3 Retrospective planning permission is sought for the retention of a 15 metre section of fencing that is 2.6 metres high and positioned on the common boundary with the property known as Helmsdale, alongside the flank wall of an extended garage (141241/FH refers).
- 1.4 Notwithstanding the description which appears to take an average height of the fence from the applicant's side, I can confirm that its height above ground level varies between 2.3m and 3m on the applicant's side and stands at a height of 2.96m measured outside the neighbours' garage window.

2. Policies

- 2.1 The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

- LD1 - Landscape and Townscape
- LD4 - Historic Environment and Heritage Assets
- SD1 - Sustainable Design and Energy Efficiency

- 2.2 National Planning Policy Framework
- 2.3 NPPG
- 2.4 Burghill Neighbourhood Plan

The Regulation 16 plan was submitted on 6 July 2016. The Neighbourhood Planning Manager has advised that *following consideration of the level and range of representations made to the Burghill NDP during the Regulation 16 consultation period, it has been recommended that the plan does not progress to examination at this stage. There are concerns regarding the community consultation undertaken, the selection of sites and the potential deliverability of proposed allocation sites. In accordance with para 216 of the NPPF, the decision not to progress to the examination will have a material effect on the weight which can be attributed to the plan in terms of its housing strategy.*

Notwithstanding this, Policy B8 Design of Development in Burghill Parish, which refers to development taking account of local identity; the setting of the conservation area and listed building and assessing the relationship of development with its surroundings is considered particularly relevant.

- 2.5 The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/core-strategy/adopted-core-strategy>

3. Planning History

- 3.1 None relevant

4. Consultation Summary

Statutory Consultations

- 4.1 None.

Internal Council Consultations

- 4.2 None.

5. Representations

- 5.1 Burghill Parish Council – object on the grounds of the visual impact of the fence and its effect on residential amenity. Reference is made to the effect on a gas flue
- 5.2 A total of 25 letters of objection have been received (two objections appear to be from the same objector and I have noted that nine of the objections are from non-residents of Burghill:
 - Height should be reduced to permitted level avoiding impact on neighbours` amenity – overbearing and prevents maintenance of guttering and boiler flue).
 - Adverse impact on visual amenity (visually prominent, inappropriate and an eyesore).
 - Precedent.
 - Impact on property value.
 - Retrospective.
- 5.3 The consultation responses can be viewed on the Council's website by using the following link:-

Further information on the subject of this report is available from Mr Simon Withers on 01432 260612

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

- 6.1 The retrospective nature of this application is regrettable and so too is the apparent animosity that has developed between the applicant and the immediate neighbour. However these matters cannot be afforded weight in its determination. The key considerations are as follows:
- The impact of the fence upon the residential amenity of occupiers of the property known as Helmsdale.
 - The visual impact of the fence on the wider area and nearby designated heritage assets.
- 6.2 In terms of residential amenity, my site visit established that the impact of the fence is limited to the alleyway to the side of the garage and more specifically to the effect on an obscure glazed window in the side wall of the garage. There is no door access to the side of the garage and the fence does not impact upon the rear garden.
- 6.3 I would preface my assessment by remarking that the fence as constructed serves little purpose in terms of reducing the impact of the garage. It does, however, appear to fetter the ability of the neighbour to maintain the guttering albeit since this would require access from the applicant's property, I sense that this would be problematic in any event. I consider that a fence of lesser height, say 2 metres, would adequately screen the garage and avoid any concerns regarding loss of privacy or amenity.
- 6.4 For the avoidance of any doubt, I have measured the height of the fence on both sides. From the applicant's property it varies between 2.3m and 3m height and from the Helmsdale side it is 2.96m (measured outside the garage window).
- 6.5 Notwithstanding the height and my view that there is a mutually acceptable compromise in this instance, it is clear that a reduction in height is not acceptable to the applicant.
- 6.6 I do not consider that the impact upon the living conditions of the occupiers of Helmsdale is so adversely affected that the refusal of planning permission is warranted. The garage is not used for habitable accommodation nor would the alleyway be in regular use as there is no access to the rear on this side. Accordingly, whilst I have encouraged a neighbourly resolution of this matter, I am inclined to attach limited weight to the impact of the effect upon the living conditions of the neighbouring property.
- 6.7 I have considered the reference to the maintenance of the garage and the effect on a boiler flue. I have seen no evidence to suggest that the effectiveness of the flue is so impacted that it cannot function or represents a health and safety hazard and in any event I consider that such a matter would be better dealt with under appropriate legislation. I do not consider that these concerns would justify the refusal of planning permission.
- 6.8 Turning to the impact on the visual amenity of the area, it should be noted that it is a statutory duty under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, for the decision maker to pay special regard to the desirability of preserving or enhancing the character or appearance of the setting or any features of special architectural or historic interest which the designated asset possesses. In practice this means that when undertaking a planning balance the weight afforded to preserving or enhancing the character and appearance of the Listed Building and/or Conservation Area is greater than that given to the other considerations.

- 6.9 I have viewed the site in the context of the nearby Conservation Area boundary and the setting of the Grade II listed building opposite the driveway to the application site. In this case, I do not consider there to be any harm to the settings of these designated assets, the character and setting of which will be preserved. Accordingly it is not considered necessary to apply the “public benefit” test prescribed at paragraph 134 of the NPPF.
- 6.10 The fence is set back some 34m from the roadside boundary and is seen against the extended garage such that it cannot, in my view, be regarded as visually prominent or unacceptably harmful to the character and appearance of the locality.
- 6.11 It is the combination of the setback nature of the fence and its position alongside a taller structure that lead me to this conclusion in this particular case. I do not therefore consider that this proposal would set a precedent as a fence of this height in a different more prominent position would in all likelihood be found unacceptable.
- 6.12 In conclusion, whilst recognising that the level of opposition to this application is striking; that there is little if any justification for a fence of the height as constructed and also that a reduction in height would mitigate the impact on the neighbours property, this does not override my view that there are insufficient grounds for the refusal of this application and I recommend approval accordingly.

RECOMMENDATION

That unconditional planning permission be granted.

Informative:

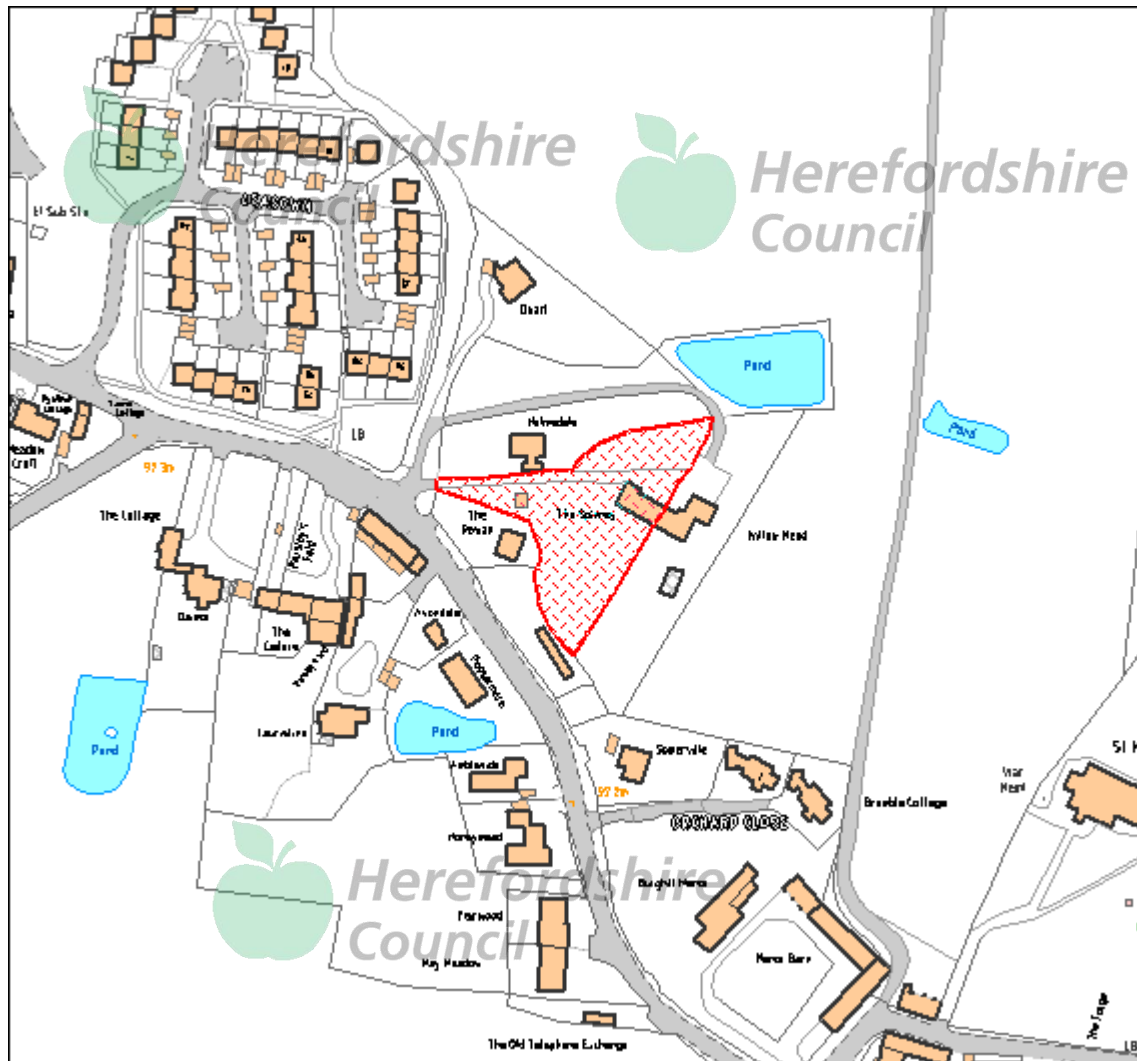
- 1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 162018

SITE ADDRESS : THE SPINNEY, BURGHILL, HEREFORD, HEREFORDSHIRE, HR4 7RN

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