

Appendix A

Appeal by Mr Andrew Aldred

Removal of existing leylandii hedge and replace with brick panel wall at 4 Stanford Way, Walton, Chesterfield.

CHE/23/00375/FUL

1. Planning permission was refused on 18th August 2023 for replacement of the leylandii hedge with a brick panel wall at 4 Stanford Way for the following reasons:

The proposed development would be a dominant and visually incongruous addition to the street scene, to the detriment of the visual character of the host property and wider street scene, by virtue of the introduction of an excessive amount of hard boundary treatments in the form of a brick and timber panelled wall. The scale and massing of the proposed development would be at odds with the open and spacious character of the area, which is free of hard boundary treatments and benefits from significant soft landscaping. The proposal is therefore considered to be contrary to policy CLP20 of the Adopted Local Plan and in conflict with standards set out in the Council's Adopted Residential SPD..

2. An appeal against the decision has been determined by the written representation appeal method and has been dismissed.
3. The main issue considered was the effect of the proposed development on the character and appearance of the local area.
4. The appeal property is a detached 2-storey house within an estate style residential area wherein dwellings are similar in age, type and style. The main house is set back from the road behind a driveway and garden with the highway frontage largely marked by a tall and dense hedgerow. The inspector commented that properties along Stanford Way generally stand back from the street behind open driveways and gardens that include boundary hedgerows, trees and shrubs. On either side of Stanford Way at its junction with Somersby Avenue, boundary walls, fences and gates are also evident albeit these enclose the side and rear gardens of the corner

plot properties. Notwithstanding, these hard boundary features, there is a welcome sense of space and informality within the local street scene to which No 4 belongs, which is distinctive.

5. The proposal is to replace the existing hedgerow with a new brick wall and solid timber panels between piers that would follow the curved alignment of the adjacent footway. In doing so, the appeal scheme would partly enclose the front garden of No 4 with a small central gap to allow pedestrian access.
6. The solid form and considerable length of the wall and fence panels means that they would be significant and prominent features when seen from Stanford Way. On the immediate approach to the site, in both directions, the proposal would draw the eye as a rather stark, solid, and formal barrier. It would have an imposing presence in the street scene in marked contrast with the more low-key and informal appearance of the front boundary treatments prevailing close to the site. For these reasons, the proposal would be obtrusive and have a deleterious effect on the character and appearance of the local area.
7. There are several examples of boundary walls and fences to properties in the local area including those to which the appellant referred and provided photographs and details. Unlike the appeal property, these features tend to enclose the side and rear garden of properties at road junctions. While clearly a visible feature of the wider estate, sizeable brick walls and fences do not represent a strong or predominant characteristic at the front of properties in the vicinity of the site, nor do they provide the visual context for the proposal.
8. The quality of the materials in this case would be high with treated timber panels, brick to match the existing house and detailing. Trailing plants could be introduced to visually soften the fence panels although the scope for meaningful landscaping would be modest in this case and could be cut back or removed at any time. Consequently, it would be difficult to enforce.
9. Reference was made to the Council's recent decision to approve a 1.8 metre, high brick wall at 2 Woodbridge Rise.

This wall is to the side and rear of No 2 and its relationship to the street scene differs to the current proposal before me. The inspector considered that even if the Council has been inconsistent in approving the development at No 2 and not the proposal, this is insufficient reason to allow the appeal.

10. The inspectors attention was drawn to a fall-back position in which the existing hedge, which is a substantial and prominent feature within the streetscape, is retained. When seen from the road, the considerable height and thickness of the hedge forms a sizeable barrier that also contrasts with the lower-level boundary features and more open frontages of nearby properties. Compared to the existing hedge, which largely blocks views into the site from the road, the proposal would allow greater intervisibility between the house and the street. However, there is little to demonstrate that these benefits would only be achieved by introducing a wall and fencing, as proposed.
11. On the main issue, the inspector concluded that the proposed development would be out of keeping with the character and appearance of the local area. As such, it conflicts with Policy CLP20 of the Chesterfield Borough Local Plan, which promotes good design and aims to ensure that all development responds positively to the character of the site and the surroundings. It is contrary to the Council's Successful Places Supplementary Planning Document (SPD), which advises that the nature and materials of front boundary treatments should reflect the context and character of the setting. It is also at odds with the National Planning Policy Framework insofar as it requires new development to be sympathetic to local character and add to the overall quality of the area.

Other matters

12. The inspector recognised that the existing hedgerow is increasingly difficult for the appellant and his wife to manage and that they wish to create a low maintenance garden. He also acknowledged the costs associated with employing a contractor to keep the hedgerow in good order. The proposed boundary treatment alongside the road would partly enclose and visually screen the front garden, which provides an important area of private amenity space. It would maintain a

sense of security and privacy and clearly demarcate the boundary between public and private space. Removal of the existing hedge would address some problems such as litter and allow natural light to penetrate the front garden that in turn could benefit plant growth and wildlife. It would also allow greater natural surveillance at the front of the property given that views towards and from the main house would be possible over the new wall and timber panels.

13. No objection is raised to the appeal scheme on the grounds of highway safety, parking, or residential amenity. Some residents support the proposal with several letters that the inspector carefully considered. If the hedge were to overhang the adjacent footway, there would be some benefit to the convenience of footway users and to driver visibility by replacing it with a new wall. However, these other matters, taken individually and together, do not outweigh the significant harm that has been identified.
14. The inspector noted that the appellant was critical of the Council's handling of the application and their decision to refuse planning permission without the opportunity to enter a dialogue about the proposal.

COSTS Application

15. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
16. The appellant had stated that the Council could have responded sooner with its concerns following the application submission and that it was not until after the Council's decision had been issued that he became aware of the outcome, with no contact from the Case Officer in the interim. The Council stated that Mr Aldred did not get in touch to check on progress. A brief exchange with the Council at the pre-application stage and the absence of an agent cited on the completed forms indicate that Mr Aldred may not have been professionally represented at that time. Given the circumstances, the inspector accepted the applicant's

disappointment with both the Council's decision and the lack of feedback beforehand.

17. Even if there is no mandatory requirement to do so, it seemed to the inspector to be good practice to seek a dialogue with an applicant and to keep them updated not least for basic courtesy and to avoid unwanted surprises. That said, there was nothing procedurally incorrect in the Council's handling of the application. The decision was reached in a timely way with the reasoning clearly set out in the Officer's report. While the Council could have better communicated its position and intentions to the applicant in good time before the decision was made, the inspector considered its approach was not unreasonable.
18. The Council's reason for refusal describes the area as spacious, open and 'free of hard boundary treatments', which does not explicitly acknowledge the presence of existing brick walls further along Stanford Way. However, these existing hard boundary features were noted in the Officer's report, which concludes at paragraph 10.1 that the area has few hard boundary treatments. Consequently, the Council's decision to refuse planning permission was not predicated on the belief that the area, however that is defined, was free of hard boundary features. The Officer's report does not use the term 'fall back' nor does it refer to the retention of the existing boundary hedgerow in that way. It does, however, compare the visual impact of the proposal with the hedgerow and so its retention was in the author's mind when the report was written. That the Officer's report does not explicitly cover the wider benefits of introducing a new wall and fence, to which the appeal evidence refers, does not necessarily mean that these considerations were ignored. Given the amount of work involved, the Council cannot reasonably be expected to also address all other planning decisions involving similar proposals in the local area such as 2 Woodbridge Rise unless a particular case is expressly relied on at that time.
19. A more positive approach and a greater level of communication and 'solution finding' with the applicant may have ultimately led to a mutually acceptable scheme thus negating the need to pursue an appeal. A more proactive approach particularly at the pre-application stage to, for

instance, offer up and explain the Council's objections could have shaped the applicant's approach to the proposed scheme. Even so, the inspector was not convinced that the Council overtly closed its mind to discussion about the proposal or that a more favourable outcome for the applicant was a likely prospect given the fundamental difference of opinion between the main parties on the merits of the scheme.

20. For the reasons given in the appeal decision, the Council's concerns were not unfounded nor were they unsupported by realistic, precise, and specific evidence about the consequences of the proposal. These concerns are clearly expressed in the reason for refusal with further detail set out in the Officer's report. To the inspectors my mind, the Council has not prevented development that should clearly have been permitted nor has it failed to substantiate its case.
21. Overall, the inspector concluded that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.