

Item No. 2

Application Reference Number P/22/0653/2

Application Type: Full **Date Valid:** 03/05/2022
Applicant: Charnwood Borough Council
Proposal: Retention of 2.4m high fence and gate on boundaries to rear of dwelling.
Location: 20 Lilac Close
Loughborough
Leicestershire
LE11 3LA
Parish: Loughborough **Ward:** Loughborough
Shelthorpe
Case Officer: Wendy Lewis **Tel No:** 07709 400993

The application needs to be heard by Plans Committee since it is an application made by Charnwood Borough Council and is the subject of an objection.

Description of the Site

The application relates to 20 Lilac Close, Loughborough which is a detached bungalow situated at the end of the turning head of Lilac Close which is a cul-de-sac. The bungalow occupies a corner plot between 2-storey dwellings at 18 and 22 Lilac Close. The property has space for car parking on the front drive. The side of the dwelling adjoins the rear garden and driveway for the dwelling at 22 Lilac Close and its rear garden backs onto the property at 51 Hazel Road. The northern side of the property adjoins the 'no mans land' that separates this property from the rear gardens of properties in Atherstone Road. The site lies within the Limits to Development of Loughborough.

Surrounding land uses are as follows:

Boundary	Adjacent land use
North	Rear garden of the bungalow at 51 Hazel Road for a distance of 22m
South East	Rear boundary and dwelling at 22 Lilac Close for a distance of 20m
East	Adjoins rear boundary for distance of 4m of dwelling at 57 Hazel Road
South	Turning head of Lilac Close and the front of dwellings at 20 and 22 Lilac Close
South West	Side boundary with dwelling and attached garage at 18 Lilac Close for a distance of 18m
North West	'No mans land' that separates this property from the rear gardens of properties in Atherstone Road

Description of the Application

The application seeks permission for the retention of a 2.4m high close-boarded fence on the south-eastern, eastern and northern boundaries of the site. Fence posts to this height

have been installed but not the fence boards having been stopped at this point by the intervention of the Planning Enforcement team.

The fence begins on the south-eastern boundary at the point where the rear elevation of the dwelling meets the side elevation. A 2.4m high gate is installed at this point at the rear of a path that leads along the eastern side of the dwelling to the rear garden. At this point the remaining side boundary will have the existing fence. To the west the fence runs past the rearmost corner of the dwelling and ends where it meets the side elevation, and is approx. 0.1m from the side of the dwelling. The 2.4m high fence runs for a distance of 10m along the mutual eastern side boundary with 22 Lilac Close and for 17m along the north-western boundary.

The applicant has submitted documentation from the Leicestershire Partnership NHS Trust that sets out the reasons behind the proposal, which relate to the future household occupants and their personal circumstances. This document contains sensitive personal information which cannot be made publicly available. This information gives evidence that the fence at 2.4m is therefore required due to the specific circumstances and needs of the householders.

The submitted letter sets out that if the fence were lowered for part, the needs of the householders as set out in the letter from the Leicestershire Partnership NHS Trust will not be met.

The following documents accompany the application:

- Drg ref 2020/089/18 Existing Garden Plan rec'd 30th March 2022
- Drg ref 2020/089/17A Rear Garden Plan rec'd 7th June 2022
- Drg ref 2020/089/100 Fence Plan rec'd 8th July 2022

Development Plan Policies

The following policies are relevant to this application:

Charnwood Local Plan Core Strategy (adopted 9 November 2015)

Policy CS2 – Design

Borough of Charnwood Local Plan (adopted 12 January 2004) (saved policies)

Policy EV/1 – Design

Other Material considerations

Relevant sections and the weight they should attract are discussed further in the report.

The National Planning Policy Framework (NPPF 2021) (NPPF)

Planning Practice Guidance (PPG)

Relevant Planning History

Reference	Description	Decision & Date
P/19/1782/2	Proposed single storey extension to side to connect with existing dwelling	Conditional Approval 15/11/2019
P/20/2401/2	Proposed single storey extension to side to connect with existing dwelling (Revised scheme)	Conditional Approval 10/03/2021
P/21/2090/2	Single storey extension to front of existing dwelling (Retrospective)	Conditional Approval 09/12/2021

Responses of Consultees

Cllr Anne Gray (Local Ward Member) – has advised that the proposed height of the fence will greatly affect light to the window of 22 Lilac Close and if such a high fence is necessary, perhaps the height could be reduced along this side of the property.

Other Comments Received

Consultation letters were sent to the neighbouring properties that have boundaries adjoining the site and a site notice has been posted. An objection has been received from the neighbour at 22 Lilac Close which makes the following points:

- The fence has been partially erected and it resembles a prison yard.
- The proposal would breach planning policies in the National Planning Policy Framework as well as Policies EV/1 and H/17.
- The size and scale of the fence does not respect the character of the residential area and is incredibly overbearing. All the surrounding properties have very similar fences in both height (6 feet) and design. This gives privacy but also provides natural light and open space without the overbearing aspect of an 8 foot timber skyline.
- Impact upon visual amenity will be domineering and result in an oppressive view.
- Overshadowing of ground floor bathroom window to the side elevation of property approx 65-70 cm from the proposal 2.4 metre high fence as well as greatly reducing natural light to rear reception room, utility room and garden.

Consideration of the Planning Issues

The key issues in considering this application are considered to be:

- Visual impact and impact on appearance and character of the street scene
- Impact on the residential amenities of neighbouring dwellings.

Visual impact and impact on appearance and character of the street scene

Policies within the saved Charnwood Local Plan and Core Strategy, notably Policies CS2 and EV/1 and the NPPF and PPG advise that in order to meet the objectives of

sustainable development new development should be well-designed and provide a safe built environment. Policies require that developments should function well and add to the overall quality of the area, that they are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and that they are sympathetic to local character, including the surrounding built environment and landscape setting.

The site is located within a residential area to the south of Loughborough and comprises mainly 1970s style dwellings. Close boarded fences are typical boundary treatments within this area although mainly they are a maximum of 2 metres in height.

The 2.4m high fence is to be erected along the side and rear boundaries to the rear of the dwelling, the posts for which are already in position. Since the fence is located at the rear and is screened by the existing dwellings at 20 and 22 Lilac Close it will not be easily visible from the street scene. It is noted however that the fence to the front of the property has also been erected to this height which would be noticeable within the street scene resulting in harm to the appearance of the street and therefore confirmation was sought from the applicant as to whether this was to be 2.4m or could be reduced in height. After discussion with the applicant it has been clarified that the fence to the front of the property will be reduced in height which would be in line with permitted development, a plan to show this has been submitted to the Council for approval.

The proposed fence and gate to the rear at 2.4 metres in height is higher than the average boundary treatment in the area. However, due to its location to the rear of the property and its limited visibility within the street scene it is not considered in this instance that the proposed fence and gate would have a detrimental impact upon the character and appearance of the area. It is therefore considered that in this respect the proposal accords with the relevant policies in the Charnwood Local Plan and Core Strategy as well as the Council's SPD on Design.

Impact on the residential amenities of neighbouring dwellings

Policies CS2 and EV/1 of the Development Plan seek to protect the amenity of existing and future residents. The Charnwood Design SPD (2020) sets out spacing standards and guidance to ensure an adequate level of amenity.

The fence is located on the mutual side boundary of 22 Lilac Close with the application site for a length of approx. 10m. There is a shed in the rear corner of the neighbour's garden adjacent to the fence and a side and rear extension has recently been completed (planning permission P/21/1085/2 refers) which projects 3m beyond the rear of the existing dwelling and is 1.72m nearer to the side boundary than the original dwelling. The mutual side boundary currently runs to the side of the garden at 22 Lilac Close for a total of 7.5m with a shed being located at the neighbouring property in close proximity to the fence which has its side elevation adjacent to the side boundary. The neighbouring dwelling extends further back than that on the application site.

The recently constructed side and rear extension of no.22 has a window in the side elevation however this is to a shower room which does not constitute a habitable room window. The rear part of the extension accommodates a utility room with a window in the rear elevation as well as a garden room. The nearest habitable room window is a window

in the rear of the garden room which is 3.5m from the side boundary, the centre being 5m from the new fence. The fence meets the 45 degree test in terms of the nearest habitable room window and would not result in material loss of light to the garden room. The neighbouring dwelling at 22 Lilac Close has a raised patio for seating area to the rear and leylandii hedge on the rear boundary that is higher than the proposed fence. Whilst the concerns of the neighbour at 22 Lilac Close are noted it is not considered that the proposal will result in material loss of light or overdominance sufficient to warrant a refusal, particularly given that an outbuilding could be erected adjacent to the mutual side boundary to a height of 2.5m without the need for planning permission.

The dwelling to the rear of the site, 51 Hazel Road, has its nearest habitable room windows approx. 8m from the mutual boundary on which the fence is positioned. The nearest windows to the fence belong to a bedroom/study and orangery which has more than one window. The window nearest to the fence is a secondary room window and therefore it is not considered that the fence at 2.4m will have a materially harmful impact on the amenities currently enjoyed by the occupiers of that dwelling.

The application site has boundaries that adjoin the rear boundary of the property at 57 Lilac Close where a length of fence of 2.4m is proposed however the rear elevation of the dwelling sits approx. 13.7m from the fence and any material impact on that property is therefore unlikely. The property at 18 Lilac Close adjoins the front of the application site and has no windows in the nearest (side) elevation that has its main orientation facing the proposed fence. Given the distance of the property from the fence there will be no impact on that property.

On balance it is considered that the fence and gate proposed on the rear boundaries of the site will not have a detrimental impact on the residential amenities of neighbouring dwellings, and therefore accords with Development Plan policies as well as national policy and guidance.

Other Matters

The neighbour's letter of representation includes reference to the fence being contrary to Policy H/17 of the adopted Local Plan 2014. However this policy refers to extensions to dwellings and since this application relates to a fence and not an extension it is not considered relevant to this application.

Equality implications

Section 149(1) of the Equality Act 2010 created the public sector equality duty and requires the Council when exercising its functions to have due regard to the need to eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under the Act, and advance equality of opportunity and foster good relations between persons sharing a protected characteristic and persons who do not share it. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

There are known equality implications arising directly from this development. The fence is required for to meet the needs of the future residents of the development who have protected characteristics. Information has been submitted to the Council to outline the needs, however this is sensitive personal information which is not publicly available on the file or for discussion at Plans Committee. Whilst it is acknowledged that the fence and gate is higher than the average boundary treatment in the area it is concluded in this instance that it would not warrant refusal and is therefore acceptable. This will not have a detrimental impact upon those with protected characteristics, rather it will have a positive impact, in so far as the needs of the future residents can be met to allow the full enjoyment of the dwelling and the private outdoor amenity space.

Conclusion

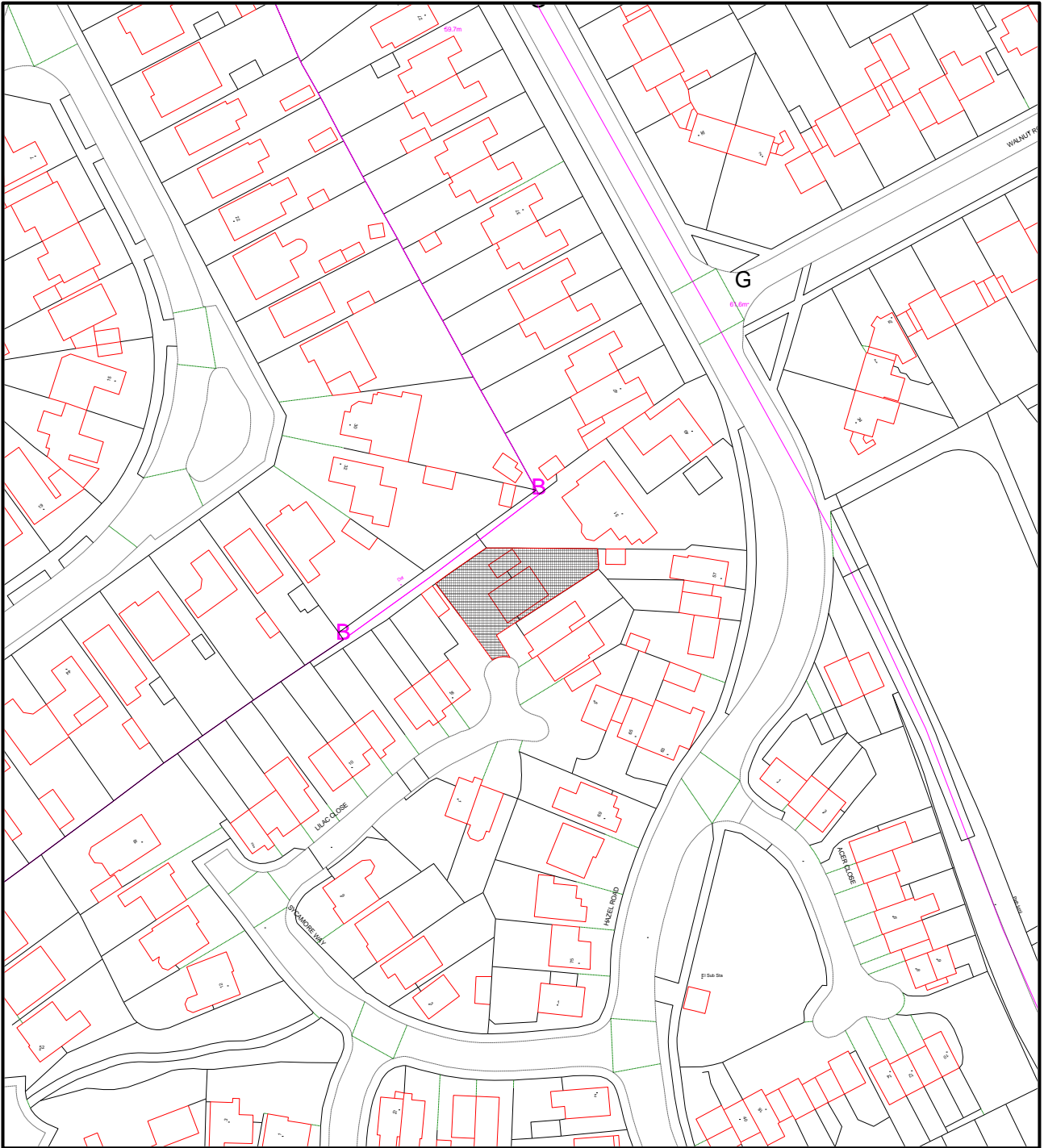
In summary it is considered that the increased height of the fence at 2.4m will not be harmful to the character or appearance of the street scene, and will not result in any detrimental harm to the occupants of neighbouring dwellings. On balance the proposal accords with planning policy both at national and District level – in particular Policy CS2 of the Charnwood Local Plan 2011 - 2028 Core Strategy, saved policies EV/1 of the Borough of Charnwood Local Plan (adopted 12th January 2004), the Council's SPD on Design, and the national guidance given in the National Planning Policy Framework and the National Design Guide. Therefore it is recommended that the application be approved.

RECOMMENDATION

Grant Conditionally subject to the imposition of the following draft conditions and reasons and that the Head of Planning and Regeneration, in consultation with the Chair of the Plans Committee for amendments to the conditions and reasons, be given powers to determine the final detail of planning conditions.

Conditions and Reasons:

1.	<p>The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.</p>
2.	<p>The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:</p> <ul style="list-style-type: none"> - Rear Garden Plan – dwg no. 2020/089/17A dated 7 June 2022 - Existing Garden Plan – dwg no. 2020/089/18 dated 30 March 2022 - Fence Plan – dwg no. 2020/089/100 received 8 July 2022 <p>REASON: To provide certainty and define the terms of the permission.</p>



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