

Delegated Report

Planning Ref: 23/00650/HOU

Applicant: Mr Malhi

Ward: Markfield Stanton & Fieldhead



Hinckley & Bosworth
Borough Council

Site: White Hill Whitwick Road Copt Oak Leicestershire

Proposal: Removal of existing brick boundary wall, retention of four existing brick gate pillars and entrance gates and erection of 1.8 metres high timber fence (part retrospective)

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. This householder application seeks part retrospective planning permission for the retention of four red brick gate pillars and timber/metal framed entrance gates and the erection of a new 1.8 metres high timber fence finished with dark green staining behind the highway boundary tree/hedge line of a dwelling, White Hill, Whitwick Road, Copt Oak.
- 2.2. The 4 metres wide vehicular gates are set back from the highway by 6 metres, have a pedestrian access gate either side and all are supported by four 2.3 metres high red brick pillars. The gates themselves are 2 metres in height and solid timber with black metal framed edges. A 1.8 metres high solid timber fence is proposed to extend either side of the entrance gates behind the existing tree/hedge line of the highway boundary to a total length of 132 metres.
- 2.3. Amended plans have been received detailing the entire removal of an existing but unauthorised red brick wall and cream rendered entrance splay wall panels of 2.3 metres in height which have been constructed along the highway boundary for a length of 78 metres without planning permission. No public re-consultations are considered to be necessary in this case.

3. Description of the site and surrounding area

- 3.1. The application site is located in the countryside to the north of Markfield and to the south of Copt Oak on the west side of Whitwick Road. It is also located within the boundaries of the Charnwood Forest and wider National Forest.
- 3.2. The wall/entrance gates have already been completed and span the majority of the front/highway boundary of the site on the back edge of a small, grassed verge. The previously existing hedge/vegetation along the highway boundary has been largely removed and replaced by the wall. Taller trees further within the site have been retained.
- 3.3. The application dwelling, White Hill, is one of a number of sporadic dwellings constructed along Whitwick Road, set back from the highway and largely screened by hedgerows and trees. Whitwick Road has a strongly rural character being flanked predominantly by agricultural fields and woodland. There are occasional domestic access walls which are set back from the highway, short in length, low level in height and constructed in local stone (granite), other entrance gates are of metal railing construction.

4. Relevant planning history

10/00848/FUL

- Extension and alterations to dwelling; erection of double garage and creation of new vehicular access
- Permitted
- 03.12.2010

12/00003/FUL

- Extensions and alterations to dwelling and creation of new access
- Permitted
- 20.03.2012

22/01089/HOU

- Erection of front boundary brick wall and pillars and entrance gates (Retrospective)
- Refused
- 10.01.2023

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. Two responses have been received as a result of public consultation. These raise objections on the following grounds:
- 1) Apart from occasional dry stone walling and stone gateposts, hedgerows form the boundaries on Whitwick Road, the original highway boundary hedgerow should be restored, perhaps with a screen fence behind it
 - 2) The retained long red brick wall, long fence and over the top gateway with black gates is out of keeping with neighbouring properties and the local vicinity and does not respect the rural character of the Charnwood Forest landscape
 - 3) The natural habitat of wildlife has been destroyed.

6. Consultation

- 6.1. Markfield Parish Council offer no comments on the application.

7. Policy

- 7.1. Markfield Neighbourhood Plan (MNP) 2020-2039 (2021)
- Policy M1: Countryside
 - Policy M2: Landscape Character
 - Policy M10: Design
- 7.2. Core Strategy (2009)
- Policy 21: National Forest
 - Policy 22: Charnwood Forest
- 7.3. Site Allocations and Development Management Policies (SADMP) DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM10: Development and Design

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

7.5. Other relevant guidance

- Charnwood Forest Landscape Character Assessment (2019)
- Good Design Guide (2020)
- National Design Guide (2019)

8. **Appraisal**

8.1. Key Issues

- Design and impact upon the character and appearance of the surrounding countryside, Charnwood Forest and National Forest landscape areas

8.2 Policy 22 of the adopted Core Strategy seeks to ensure that proposals within the Charnwood Forest retain local character and complement the local landscape. The overall aim being to retain, enhance and, where necessary protect, the resource and its important landscape features to maintain its integrity. Policy 21 of the adopted core Strategy supports proposals where the siting and scale of the proposed development is appropriately related to its setting within the National Forest and where it respects the character and appearance of the wider countryside. The policy requires that development proposals reflect the National Forest context.

8.3 Policy M1 of the 'made' Markfield Neighbourhood Plan (MNP) states that land outside the settlement boundary will be protected for the sake of its intrinsic character, beauty, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all. Policy M2 of the 'made' MNP requires that development should be located and designed in a way that is sensitive to its landscape setting, retaining and, where possible, enhancing the distinctive qualities of the landscape character area which it would affect. Development should:

- conserve and, where possible, enhance the character and qualities of the local landscape through appropriate design of development proposals,
- retain and where possible enhance woodland, hedgerows, mature trees, and stone walls as features of landscape importance,
- be well integrated within the landscape with planting to soften urban edges and provide appropriate landscape mitigation.

8.4 The Charnwood Forest Landscape Character Assessment (2019) identifies the application site as being located within Area 2: Ulverscroft Wooded Valley. This area has a relatively peaceful, upland landscape of elevated topography, heavily wooded and with little settlement. The combination of ancient woodland, mature trees and weathered walls creates a sense of maturity while the elevated topography and presence of stone walls and rocky outcrops provide distinctive characteristics.

8.5 Policy M10 of the 'made' MNP states that to be supported development must be sympathetic to local character and history and:

- Be in keeping with the scale, form and character of its surroundings,
- Protect important features such as traditional walls, hedgerows and trees,

- Integrate into its surroundings and create a place with a locally distinctive character by resisting the encroachment of modern, generic, domestic forms along key historic routes, ensuring development responds to the agricultural and quarrying precedents in the village through materials and form and meets the general design principles of the National Forest.
- 8.6 Policy DM4 of the adopted SADMP states that in order to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. One type of development in the countryside that it suggests may be considered to be sustainable relates to the extension of existing buildings where this would lead to an enhancement of the immediate setting and then only where:
- it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside and
 - does not undermine the physical and perceived separation and open character between settlements and
 - does not create or exacerbate ribbon development and,
 - if within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Policy 21 of the Core Strategy.
- 8.7 Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features and for building materials to respect the materials of existing/neighbouring buildings and the local area generally.
- 8.8 As a result of public consultation two responses have been received which raise objections to this (part) retrospective application on the grounds that hedgerows form the boundaries on Whitwick Road, the original highway boundary hedgerow should be restored, perhaps with a screen fence behind it and that the retained long red brick wall, long fence and over the top gateway with black gates is out of keeping with neighbouring properties and the local vicinity and does not respect the rural character of the Charnwood Forest landscape.
- 8.9 Whitwick Road has a strongly rural character being flanked predominantly by agricultural fields and woodland. The occasional dwellings are generally set well back from the highway and/or screened by mature hedgerows and trees with only low key vehicular accesses. Where formal access structures have been constructed these are set back from the highway, short in length, low level in height and constructed in local stone (granite) with gates of metal railing construction. As a result, these are sensitive to and respect, conserve and complement the local rural character and appearance of the area and its context within the distinctive Charnwood Forest area and that of the wider National Forest.
- 8.10 The original proposal detailed within this application sought to retain a 1 metre high red brick wall along the highway boundary and retention of part of the rendered 2.3 metres high entrance splay walls and red brick pillars and entrance gates. However, in response to concerns raised, amended plans have been received detailing the entire removal of the existing but unauthorised red brick wall and cream rendered entrance splay wall panels of 2.3 metres in height, with retention of just the four red brick gate pillars and entrance gates. The amended proposal also details a 1.8 metres high solid timber fence finished with a dark green stain to extend from the outside gate pillars for a total length of 132 metres but to the rear of the highway boundary tree/hedge line. This is sought to provide privacy to the occupiers and some noise mitigation from road traffic.

- 8.11 The proposed retained entrance gates and four brick pillars would extend for a total width of 9.6 metres but would be set back from the highway carriageway by 6 metres and also back from the remaining highway boundary tree/hedge line. By virtue of their reasonable height of 2 metres and high quality solid timber construction with black metal edge detailing, the gates are not considered to be unacceptable in terms of their siting, design or appearance. Notwithstanding their construction in red brick, the proposed retained four brick pillars would be similarly set back from the highway carriageway and remaining highway boundary tree/hedge line and would be only 0.9 metres each in width. By virtue of their width and set back, the proposed retained pillars and gates would only be visible from the highway in close proximity to the site entrance rather than in any longer distance views on approach to the site. As such, by virtue of their siting, design, appearance and screening by planting, it is considered that the entrance gates/pillars would not result in any significant adverse visual impacts on the rural character or appearance of the site or surrounding verdant rural landscape.
- 8.12 The 1.8 metres high solid timber fence is proposed to replace the unauthorised red brick wall for privacy purposes and to aid noise reduction from road traffic. It would extend in line with and either side of the entrance gates to a total length of 132 metres. Notwithstanding its substantial length that reflects the size of the plot in which the dwelling is located, it would have an appropriate height of 1.8 metres, be set back 6 metres from the highway carriageway and to the rear of the existing remaining highway boundary tree/hedge line. It is also proposed to be finished with a dark green stain to seek to reduce its visual impact and be more sensitive to, and better integrate into, the surrounding verdant rural landscape.
- 8.13 Unfortunately, the highway boundary tree/hedge line has recently been subject to significant removal of planting to enable the construction of the unauthorised brick wall. As a result, there are significant gaps within it that would offer clear views of the substantial 132 metres length of the proposed fencing which it is considered, despite its dark green staining, would still appear in stark contrast to its natural surroundings. Therefore, notwithstanding the siting, design and appearance of the fencing, particularly as a result of its length, it is considered that the submission of a robust tree/hedgerow planting scheme to replace that lost together with a prompt implementation programme and long term maintenance programme for the approval of the local planning authority would be reasonable and necessary in this case in order to make the proposals acceptable on balance in planning terms. Such details could be secured through the use of an appropriately worded planning condition to protect and enhance the existing tree/hedge highway boundary and ensure that overall, the amended proposals would not result in any significant or unacceptable adverse visual impacts on the rural character and verdant appearance of Whitwick Road and its setting within the context of the Charnwood Forest and National Forest landscapes. The replacement planting would also replace, enhance and protect wildlife habitat in the long term.
- 8.14 It is considered that only with such a replacement landscaping scheme for the highway boundary would the proposals be sensitive to, and be satisfactorily integrated into, the surrounding landscape, conserve and enhance the highway boundary trees/hedgerow and preserve the rural character and verdant appearance of the site and surrounding landscape.
- 8.15 Subject to the submission, implementation and long term maintenance of a robust highway boundary landscaping scheme and by virtue of the siting, design, appearance and future screening, the amended proposals would, on balance, be acceptable in terms of the objectives and requirements of Policies 21 and 22 of the adopted Core Strategy, and be in accordance with Policies M1, M2 and M10 of the 'made' Markfield Neighbourhood Plan 2020-2039 (2021), Policies DM4 and DM10

of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the overarching principles of the National Planning Policy Framework (2021).

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1. The application site is located in the countryside to the north of Markfield and to the south of Copt Oak on the west side of Whitwick Road within the boundaries of the Charnwood Forest and wider National Forest where development is subject to policies which restrict forms of development to that which retains, conserves, enhances and protects the local rural character and appearance of the countryside and the integrity of the distinctive Charnwood Forest landscape and the wider National Forest area.

10.2. Subject to the submission, implementation and long term maintenance of a robust highway boundary landscaping scheme and by virtue of the siting, design, appearance and future screening, the amended proposals would, on balance, respect, complement, preserve and enhance the local rural character and verdant appearance of the site and surrounding countryside within the Charnwood Forest and National Forest landscapes. The amended proposals would then be acceptable in terms of the objectives and requirements of Policies 21 and 22 of the adopted Core Strategy, and be in accordance with Policies M1, M2 and M10 of the 'made' Markfield Neighbourhood Plan 2020-2039 (2021), Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the overarching principles of the National Planning Policy Framework (2021) and are therefore recommended for approval subject to the conditions at the end of this report.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

11.2 Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan and Proposed Entrance Gates, Brick Pillars and Fence Plans and Elevations Drawing No. 22093 DSA XX XX DR A 101 Rev A received by the local planning authority on 14 August 2023.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policies M1, M2 and M10 of the adopted Markfield Neighbourhood Plan (2021).

2. The external elevations of the 1.8 metres high timber fence hereby permitted shall be finished in a dark green colour stain in accordance with the approved Proposed Entrance Gates, Brick Pillars and Fence Plans and Elevations Drawing No. 22093 DSA XX XX DR A 101 Rev A received by the local planning authority on 14 August 2023 and once so provided shall be permanently so maintained at all times thereafter. Any replacement fence panels shall be similarly treated and thereafter permanently so maintained at all times.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4 and DM10 of the adopted Site allocations and Development Management Policies Development Plan Document (2016) and Policies M1, M2 and M10 of the adopted Markfield Neighbourhood Plan (2021).

3. Within two months of the date of this planning permission, a detailed scheme of soft landscaping works of additional native species planting to infill the gaps within the remaining highway boundary tree/hedge line, including an implementation programme and long term maintenance programme, shall have been submitted in writing to the local planning authority for the written approval of the local planning authority. The scheme shall then be carried out and subsequently maintained in full accordance with the approved landscaping scheme, implementation programme and long term maintenance programme at all times thereafter.

Reason: To ensure that the works are carried out within a reasonable time period and thereafter adequately maintained to protect and enhance the rural character and appearance of the site and surrounding area within the Charnwood Forest and National Forest in the interests of visual amenity and to ensure that the development results in a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policies M1, M2 and M10 of the adopted Markfield Neighbourhood Plan (2021) and the overarching principles of the National Planning Policy Framework (2021).

11.3 Notes to applicant

1. The applicant is advised that the submitted landscaping scheme details should include a) planting plans, b) written specifications, c) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate d) implementation programme which should be the next available planting season following the date of the planning permission and e) a cyclical long term maintenance/replacement programme for the various components of the scheme.