



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 4th February 2016

Subject: Planning application 15/04603FU for change of use of land to domestic garden with fencing at No. 18 Sycamore Avenue, Halton, Leeds, LS15 7RB

APPLICANT

Ms Amy Nettleton

DATE VALID

27th August 2015

TARGET DATE

5th February 2016

Electoral Wards Affected:

Temple Newsam

Yes Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

RECOMMENDATION: REFUSE for the following reason:

1. The proposed retention of the application site as domestic curtilage associated with No. 18 Sycamore Avenue and including its means of enclosure represents a harmful encroachment into a historic access route and a form of development that has an unsympathetic overall appearance and impact as a result of the reduction in the space available, the quality/design of the boundary treatment itself and the overall loss of openness. The proposal therefore compromises the original spatial setting and characteristics of the route and has a harmful impact on its attractiveness and usability from a user perspective. The application is therefore contrary to the aims of Core Strategy policy P10 and saved Unitary Development Plan Review policies GP5, N25 and the design guidance contained in the Council's adopted guide Neighbourhoods for Living and that of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 This application is presented to Plans Panel at the request of Ward Councillor Hayden who is supportive of the scheme and considers the scheme to be an improvement on the original situation and has helped address some anti-social behaviour issues.

- 1.2 A Panel decision is also considered prudent in the circumstances as the majority of the proposal has already been implemented and accordingly if the officer recommendation to refuse is agreed, an appeal is the most likely outcome.

2.0 PROPOSAL:

- 2.1 Permission is sought retrospectively for the change of use of land to the side of an end terraced property to form an enlarged domestic curtilage. The area of land originally formed half of a wider access route which runs between No. 18 Sycamore Avenue and No. 16, which is the opposite end property associated with the neighbouring terrace.
- 2.2 The land subject to this application has already been enclosed by timber fencing with a concrete gravel board to the base and supported by regularly spaced concrete posts. The application proposes a height increase to part of the existing fencing around the Cross Street boundary to achieve a total height of circa 1.83m (which would be the same height as the existing concrete posts).

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site relates to a wider plot which comprises of an end of terrace property. The ground floor of the dwelling is brick but has been painted white. The first floor is rendered and is also painted white. A modest Upvc conservatory has been added to the rear and off-street parking is available from Cross Street via a gated driveway. The original red brick boundary wall is now rendered and painted white.
- 3.2 As already described, the application is retrospective in nature and has extended the domestic curtilage through the utilisation of land previously forming half of the access lane situated between Nos. 16 and 18 Sycamore Avenue.
- 3.3 The surrounding area comprises of traditional terraced properties constructed from red brick at the ground floor and rendering to the first floor. Sycamore Avenue is an attractive, tree lined residential street with houses on either side and set back from the road by a uniform distance. The intervening space is utilised as front gardens and boundary treatments to the front remain largely original (i.e. relatively low red brick walls). To the rear, yard/gardens are provided and include a variety of outbuildings/domestic structures. Rear boundary treatments fronting Cross Street are more varied although the basic height of the original walls (albeit many have now been rendered) is still evident. Higher timber fencing is however present on some properties, either behind the original walls or as a complete replacement.
- 3.4 With respect to the access route itself, prior to being annexed the entire area was grassed over with a worn, unsurfaced desire line clearly evident within the centre of the space. Post erection of the fencing, pedestrian activity has moved closer to No. 16 Sycamore Avenue and a new worn track now exists.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 No planning history although an investigation by the Compliance Team (ref: 14/01105/UCU3) has been undertaken following a complaint about a breach of planning control. Further action is on hold pending the outcome of this planning application.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The applicant sought advice regarding the acceptability of the development following an initial enforcement investigation. The officer advice provided confirmed the proposal could not be supported and advised against submitting a formal planning application and recommended the re-instatement of the access route.
- 5.2 On receipt of this formal application and following a request from Ward Councillor Hayden to try and find a way forward, officers suggested a compromise position whereby the boundary treatment is set off the centre line of the access lane (by some 1.5m) so that should the neighbouring occupier also want to do something similar in the future, a reasonable width and balanced appearance to the route would remain. However, the applicant is not willing to amend the scheme and has suggested the remaining land should be safeguarded to secure access.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application was advertised by individual neighbour letters and site notice dated 3rd and 11th September 2015 respectively.

Councillor Hayden is supportive of the scheme for the following reasons:

- The land registry clearly shows that this land belongs to number 18 Sycamore Avenue. Therefore the neighbouring property does not have a similar claim as there is no land attached to that property.
- The fencing allows for the continuation of a public right of way.
- There is a precedent on the opposite side of the road.
- The fencing protects the property especially the Gas meter from vandalism which has happened before.
- As for the 'village look' of the area, the fencing is attractive and other residents have commented that it is a big improvement. Before the fencing the area was used by groups of young people to socialise which resulted in detritus in the 'ginnel' and anti-social behaviour at times. This has been drastically improved by fencing off the land.

One letter of objection has been received making the following comments:

- The lady moved in last year (2014) and shortly afterwards erected a high fence across half of a right of way in the village.
- Part of the fence has been lowered on instruction of the Council but the issue of the right of way still remains.
- Understand it is one of many right of way awaiting adoption.
- Concern that it is a village amenity that has been compromised and there is little enough of the old Halton Village left as it is.

7.0 CONSULTATION RESPONSES:

Public Rights of way:

- 7.1 A claimed footpath crosses the site. This footpath is shown on maps dating back to 1888 as one of the access points onto Sycamore Avenue. It may also have private rights for the adjoining terrace. The full width of the area between the two houses is likely to carry public rights. Therefore a Public Path Extinguishment Order would be required to allow any of the land to be fenced off. The public rights of way section object to the planning application as currently proposed as it encloses the land up to the centre of the track and the public right of way.
- 7.2 The public rights of way section would require access to be maintained for footpath rights. A footpath should be a minimum width of 3 metres wide down the centre of the footpath; 1.5 metres from the centre line either of the track between the two houses. A Public Path Extinguishment Order to extinguish highways rights on any land to be enclosed under the Town & Country Planning Act 1990 would be required and would be subject to public consultation. Objections are likely to be received from the public and an Order may not be confirmed.
- 7.3 If a 3 metre strip were to be left down the centre of the track the public rights of way section would support an Order to extinguish the rest of the track but not the full width. 1.5 metres would have to be left on the applicant's land from the centre line of the track to ensure that a 3 metre wide path would remain if the owner of the land of the other side made a similar application.

8.0 PLANNING POLICIES:

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

Local Planning Policy

- 8.2 The Core Strategy is the development plan for the whole of the Leeds district. The following core strategy policies are considered to be relevant:

P10: Seeks to ensure that new development is well designed and respect its context.

- 8.3 The application site is not specifically designated within the saved UDP Review (2006). Nevertheless, the following policies are also considered to be relevant:

GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including design, visual impact and issues of access.

N25: Seeks boundaries of sites to be designed in a positive manner using walls, hedged or railings where appropriate to the character of the area.

- 8.4 No Natural Resources and Waste policies are considered to be relevant to this application.

Supplementary Planning Guidance:

- 8.5 Neighbourhoods for Living (SPG13, adopted).

National Planning Policy

- 8.6 The National Planning Policy Framework (2012) 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. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
- 8.7 The NPPF gives a presumption in favour of sustainable development and has a strong emphasis on achieving high quality design. Of particular relevance, the national planning guidance attaches great importance to the design of the built environment and is indivisible from good planning (para.56) and seeks development proposals to add to the overall quality of the area, create attractive and comfortable places to live and respond to local character (para.58).

9.0 MAIN ISSUES

1. Principle of development (Accessibility and Visual Impact)
2. Residential amenity considerations

10.0 APPRAISAL

Principle of development (Accessibility and Visual Impact)

- 10.1 The domestic curtilage associated with No. 18 Sycamore Avenue has been extended without the benefit of planning permission, and a concrete/timber fence erected to enclose the enlarged area. The works have been the subject of an enforcement investigation (ref: 14/01105/UCU3) following receipt of a complaint and are confirmed as not being immune from action.
- 10.2 The requirement for the planning application to use the land included within the application site boundary as domestic curtilage clearly demonstrates it was never originally associated with No.18 Sycamore Avenue. In this respect its original appearance and function was that of an open and publically accessible route between the two sets of terraces and this is evidenced by historical maps for the area and the presence of the original kerb edging at the Sycamore Avenue end which still shows an arched radius leading to what would have been a side road. Even the applicant's own title deed support this position as it makes reference to access needing to be maintained. The Public Rights of Way Officer also confirms the route represents a long standing, claimed right of way which extends to the entire gap between the two properties.
- 10.3 In the light of the above, the need to retain public access through the area is clear and even the applicant accepts this point but along with Councillor Hayden is of the view appropriate provision is still maintained via the half of the route which has not been enclosed.
- 10.4 In assessing this viewpoint, whilst strictly speaking access is still provided between Cross Street and Sycamore Avenue, the quality of the route itself and its overall visual appearance has been compromised by the introduction of fencing across part of the route.
- 10.5 In physical terms, the extent of encroachment amounts to a reduction by half relative to the original width available and accordingly this has reduced its sense of openness and created a visually unbalanced appearance which is clearly at odds with the

original character of the area and another similar route which exists nearby. The need to ensure the route retains a more regular and uniform appearance is therefore considered to be important and has not been adequately achieved. The quality of the boundary treatment itself is also very poor and lacks the robustness and sense of belonging and originality which is still very evident with other boundary treatments in the area, particularly those found to the frontage and sides.

- 10.6 The attractiveness of the route from a user perspective has also been harmed as a result of the reduced sense of openness and its more enclosed nature. The reduction in the space available appears to have led to a deterioration of the ground surface also due to usage now being focused over a much narrower area. This clearly demonstrates regular usage and whilst officers acknowledge other access options are available it is considered to be reasonable to ensure any development proposals achieve an appropriate balance between the interests of private individuals and those of the general public. For these combined reasons and in accordance with the advice of the Public Rights of Way Officer the application cannot be supported in its current form and is recommended for refusal.
- 10.7 Notwithstanding the above, a wider issue of parity is also considered to apply to the consideration of this application as it should not simply be the first person that applies for planning permission can utilise up to the centre line and then the other neighbour can effectively do nothing with the remaining space due to the requirement to maintain access. Whilst it has been suggested the neighbour does not own the equivalent land, it is not vested with the Council and the circumstances which have resulted in the applicant taking ownership of the application site could presumably be easily repeated. Particularly as the neighbour has already queried in separate correspondence if he could do something similar. A scheme whereby both neighbouring occupiers are treated equally and the concerns as outlined above are better resolved is therefore considered to be a more appropriate way of proceeding.
- 10.8 For the above reasons, the proposed inclusion of land into the domestic curtilage associated with No. 18 Sycamore Avenue in its current form runs counter to the requirements of Core Strategy Policy P10 and saved UDP Review Policies GP5 and N25 which amongst other factors expect development proposals to be based on a thorough contextual analysis of an area to ensure only proposals which contribute positively to place making are supported. Similar guiding principles to design can also be found within the Council's own Neighbourhoods for Living document and the NPPF.

Residential amenity considerations

- 10.9 The incorporation of the land into the domestic curtilage associated with No. 18 Sycamore Avenue is not considered to have a direct adverse impact on local residents living conditions in respect of levels of noise or disturbance. Accordingly no residential amenity reason for refusal is advanced although clearly the reduction in its attractiveness from a user perspective does raise some accessibility/convenience issues as identified under the first heading.
- 10.10 With respect to the amenity issues raised by Ward Councillor Hayden, whilst the applicant's own property is no doubt better protected as a result of the works undertaken, the neighbouring property is no better off and a more enclosed 'ginnel' now results which is arguably worse in terms of the potential for anti-social behaviour to occur as overall visibility has generally been reduced.

11.0 CONCLUSION:

- 11.1 Given the above, it is considered the application to regularise the change of use of land to form an enlarged domestic curtilage cannot be supported and has resulted in an unacceptable reduction in the openness of an important historical access route. The reduction in openness has created a visually unbalanced appearance to the route and utilises a boundary treatment which is unsympathetic. The quality of the route from a user perspective has also been reduced. For all of these reasons, the application cannot be supported and is recommended for refusal.

Background Papers:

No notice served – applicant owns the land within the application site boundary

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15/04603/FU



CHANGE OF USE TO DOMESTIC GARDEN = 64.31 Square metres



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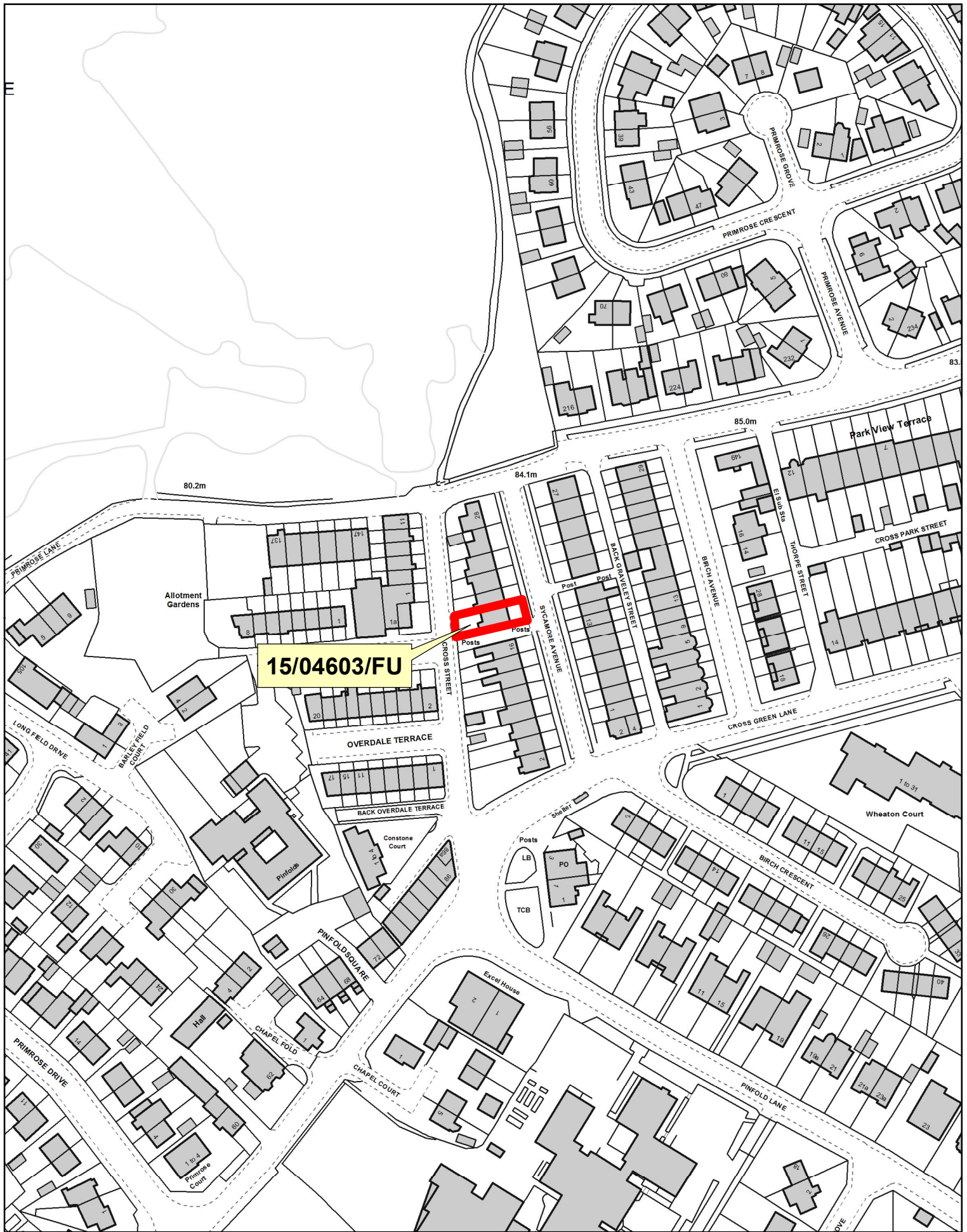
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Scale:

1:200



NORTH AND EAST PLANS PANEL

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SCALE : 1/1500

