

Recommendation:- APPROVE subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application proposes the erection of a low boundary wall of three bricks high with metal railings above to a height of 2 metres in place of a previous proposal for a wall of just under 1m metres with rendered posts 800mm wide and metal railings to a total height of 2.6 metres. The application also involves the change of use of land from agricultural land to domestic garden and regrading and reinstatement of the land. The previous application with the rendered posts and higher wall and total height was refused planning permission and dismissed on appeal. The current proposal seeks to overcome the reasons for refusal.

2.0 SITE LOCATION/DESCRIPTION

2.1 Ashford Hall lies on the edge of Knockin, behind other housing sited on the main roads through the village. It is a large dwelling which previously sat in a restricted domestic curtilage. Consent was granted on 3rd January 2013 to extend the curtilage to include a larger garden area to the east of the house. The current application includes the approved garden extension (granted January 2013) and a further extension to this previous approval.

2.2 To the North of the site boundary are existing residential properties, Assembly Rooms and the Bradford Arms Public House. To the south is open agricultural land, and Knockin Medical Centre lies to the west of the house.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council comments are contrary to the recommendation of officers and the Principal Planning Officer in discussion with the local member and chair of the committee have agreed that the matters raised are material planning considerations which should be discussed at committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Knockin Parish Council** – The Parish Council considered this application at a special meeting on 1.4.14 and does not object to the element of the application that relates to the change of use of agricultural land to garden.

However the Parish Council is in agreement with the conservation officers comment on this application in that whilst the railings are a slightly improved boundary treatment than that previously proposed. It is considered that with the addition of the brick plinth the whole height of the railings is excessive and will appear overly dominant in a rural setting. It will also be more difficult to screen such a high boundary treatment with landscaping. The Parish Council considers that the fencing should be of a maximum height of 1.5m from ground level.

In addition to this, should permission be granted, the Parish Council would wish the

following conditions as part of the permission.

1. Lighting lights or the illumination from them should not be visible from outside of the site.
2. There should be a condition removing permitted development rights for building works within the site.

- 4.1.2 **Council Conservation Officer** – The site lies on the edge of the Knockin Conservation Area and falls within open countryside. A recent application for a similar proposal was refused on appeal.

The proposal needs to be in accordance with policies CS6 Sustainable Design and Development and CS17 Environmental Networks, and with national policies and guidance, including PPS5 Historic Environment Planning Practice Guide published by English Heritage in March 2010 and National Planning Policy Framework (NPPF) published March 2012.

This application seeks permission for the change of use of agricultural land to garden land and the erection of railings on a brick plinth to form the boundary treatment to the proposed garden. A mixed native hedge is proposed to be set around the boundary.

It is considered that the railings are a slightly improved boundary treatment than that previously proposed. However it is considered that with the addition of the brick plinth the whole height of the railings is excessive and will appear overly dominant. It will also be more difficult to screen such a high boundary treatment with landscaping.

A simpler, shorter design would be more appropriate, easier to screen and sit better within the open countryside setting. It is recommended that the above comments are taken into account and revisions are considered.

4.2 **Public Comments**

- 4.2.1 A site notice and press notice have been produced and 5 individual neighbours have been notified. No comments have been received as a result of this consultation.

5.0 **THE MAIN ISSUES**

- Principle of the proposed change of use
- Soil movement
- Size of extended garden
- Boundary treatment
- Impact upon landscape, setting and the Conservation Area

6.0 **OFFICER APPRAISAL**

6.1 **Policy & principle of development**

- 6.1.1 Planning permission was granted in January 2013 for the change of use of land to the east of Ashford Hall. The consent was granted with permitted development rights for outbuildings, swimming pools, enclosures and hard standings removed by

condition and a separate condition requesting submission of a landscaping scheme. Within the officers report it was noted that at the time the application was for a change of use only with no built development on the land, on this basis the application was considered acceptable as although the area identified was defined as agriculture it was not intensively used. The report also confirmed that permitted development rights were to be removed on the basis that allowing permitted development rights could potentially erode the character and appearance of the area to the extent that it would be harmful to the landscape and rural area. A landscaping condition was imposed to ensure adequate assimilation into the rural landscape.

6.1.2 As with the previous application the overriding presumption of Shropshire Council's Core Strategy and the NPPF is to facilitate and promote development providing it does not have an adverse impact. Accordingly applications to change the use of agricultural land to domestic gardens in rural settings can be supported in principle but are considered based on their impacts.

6.1.3 This current application follows a refusal of an application for a further extension of the domestic garden, re-grading of the land and erection of a wall and railings. That application was refused for the following reason:

The change of use of the land and associated development works would erode the character and appearance of the area to the extent that it would be harmful to the landscape character and rural nature of the locality. The wall, pillars, railings and lighting undertaken and proposed introduce an urban feature which will not easily assimilate into the existing rural landscape; will not maintain the scale, appearance and character of the area or safeguard the amenities of the locality, and will have an adverse impact on the character and appearance of the village and an adverse impact on the overall quality of the natural or historic environment and adjoining Conservation Area. Accordingly the proposal is contrary to policies CS5, CS6 and CS17 of the Shropshire Core Strategy. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

6.1.4 An appeal was subsequently submitted and dismissed and the Planning Inspector dismissed the appeal.

6.1.5 The current planning application proposes a lower wall of three bricks high and lower railings with metal supporting piers rather than the blockwork rendered piers which had previously been erected and proposed. The current application continues to propose a garden which is larger in area than previously approved, involves the moving of soil off and around the site and the erection of the wall and railings. It is these matters and the impacts which need to be considered in this current application.

6.2 **Soil movements**

6.2.1 The movement of soil around a domestic garden would ordinarily not require planning permission unless it constituted an engineering operation, ie activities which are normally undertaken by persons carrying on business as an engineer altering the profile of land by excavation, embanking or tipping. Planning law has established that it is not necessary for an engineer to be present on site for work to

constitute an engineering operation. The works undertaken at Ashford Hall are considered to be engineering operations as the work which has been done is beyond that which would normally be carried out by a householder improving their garden. In addition a pond, formerly created as a wildlife pond granted consent in October 2000, which was previously outside the domestic curtilage has been drained and a new pond excavated which would also constitute engineering operations.

6.2.2 The agent has confirmed that there is no soil being taken from the site. The top soil has been removed and stored on adjacent land and will be replaced on the application site over a layer of sand and stone. The end result will be a flat garden. Officers consider that although this will result in a change in the character of this parcel of land this change is not considered by officers to be unacceptable or significantly harmful.

6.2.3 The planning inspector on considering this point noted that the issue of regarding and site levels could be dealt with by condition and the agent considers that there will be no perceptible change in levels and that the development will outwardly retain the rural character.

6.3 **Size of extended garden area**

6.3.1 Ashford Hall was built around 1999, it is a large neo-Georgian house within a restricted domestic curtilage albeit adjacent to open countryside, which at the time of the consent was appropriate for the owner. Following the sale of the property the current owner sought consent in January 2013 to extend the domestic curtilage. The garden area approved in January 2013 showed the existing curtilage around the dwelling and the main area of extended garden to the east with a narrow strip to the south. The area containing the pond permitted as a wildlife pond between the dwelling and the extended garden was shown as within the ownership of the applicant but not part of the January 2013 application. This land did not form part of the domestic curtilage of the dwelling – the pond was granted consent under planning ref 00/11229/FUL dated 12/10/2000 and the proposal was for ‘ construction of a wildlife pond on land adjoining the new dwelling’.

6.3.2 The current proposal includes the area around the former pond and a wider strip to the south of the approved extended garden (January 2013). The proposal does not extend any further to the east and will be no further than the current extent of the village development boundary and will stop short of the land occupied by the Bradford Arms. The length of the extension to the east is 48m as defined in the agent’s statement and of varying widths of an average of 33m wide. It is acknowledged that the land is the same as that previously refused by officers.

6.3.3 In considering this issue the Planning Inspector has advised that “there is a sound argument for providing the property with a more generous and extensive landscaped grounds” as the dwelling was built as a ‘gentleman’s residence’ with a very limited curtilage. Within the concluding remarks on the appeal the inspector states that “there would be no objection in principle to the extension of the domestic garden onto the appeal site”.

6.3.4 Officers therefore advise that a refusal on the principle of the garden extension would not be likely to be defensible on appeal and that the primary focus should

be on whether the current boundary treatment is acceptable.

6.4 **Boundary treatment**

6.4.1 The previously approved scheme did not propose any built development and as such was considered to retain the overall rural character and appearance of the area as noted within the planning statement attached to planning application 12/04951/COU. Within the planning statement there is recognition that a small section of hedgerow would be removed however a new hedgerow would be planted along the southern boundary to form a new means of enclosure.

6.4.2 The previous refusal for a blockwork rendered wall with blockwork rendered pillars, metal railings between the pillars and lighting on each pillar was refused on the grounds that this boundary was considered to be harmful to the character of the area. This refusal was upheld by the planning inspector who noted that the rural landscape is characterised by open fields and pasture land separated by hedgerows and that existing boundaries around the village are hedges, brick and sandstone. The inspector commented that the harsh appearance of the wall and railings was apparent but also accepted that the grounds of country houses are bounded by walls or fences but that this is ordinarily been achieved by the use of local or natural materials. The inspector judged that the wall, with its multitude of piers, was intrusive and out of place in the rural landscape and from a number of locations drew the eye and have an adverse impact on the setting of the Knockin Conservation Area.

6.4.3 In order to overcome the reason the previous application was refused and the appeal dismissed the applicant and their agent have proposed a lower wall, removing the solid piers and reducing the height of the railings. It is acknowledged that the Parish Council and the Conservation Officer remain concerned about the height of the proposal and whether it can be mitigated by landscaping and these concerns are noted. However, officers consider that the reduced height is an improvement of the previously refused scheme and is also the height that could have been erected around any other domestic garden under permitted development rights. Consent is only required in this instance as the land is in part not domestic garden and also has its permitted development rights removed.

6.5 **Impact on area**

6.5.1 Abutting the edge of the Knockin conservation area the extended garden area is visible from the public footpaths which run along the eastern boundary of the application site. It is acknowledged that the previously refused scheme was highly visible and detrimental to the character of the area and specifically the conservation area. However this was mainly due to its height and the solid 800mm wide plinths. As noted above the railings have been removed and the plinths are now part of the metal railings and as such are not solid features.

6.5.2 The submitted plan does not include any details of lighting. The agent has confirmed that the applicant wishes to provide lighting around the garden but has not at this time provided any details. Officers advise that the lighting can be controlled by condition to ensure that the lighting is of a low wattage and appropriately hooded to ensure that spillage does not adversely affect the wider area.

6.5.3 It is therefore considered by officers that the amended scheme now submitted, with the provision of additional native species landscaping on the outside of the wall and railings, will maintain and enhance the countryside character and comply with the reasons that permitted development rights were removed for this type of work. Accordingly officers consider that the development will comply with policies CS5, CS6 and CS17.

7.0 CONCLUSION

7.1 The change of use of the land and associated regarding of the land and the proposed wall and railings are considered to be appropriate for the dwelling to which the land would be associated and not detrimental to the character of the area or the conservation area. Accordingly the proposal is considered to comply with policies CS5, CS6 and CS17 of the Shropshire Core Strategy. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks

10.2 Relevant planning history:

12/04951/COU Change of use of agricultural land to domestic garden land GRANT 3rd January 2013

13/01915/FUL Application under Section 73A of the Town & Country Planning Act for the change of use of agricultural land to domestic garden land; erection of boundary wall and railings REFUSE 4th September 2013

Appeal

13/02063/REF Application under Section 73A of the Town & Country Planning Act for the change of use of agricultural land to domestic garden land; erection of boundary wall and railings DISMIS 6th February 2014

11.0 ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Arthur Walpole
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. Except for the development hereby approved, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 1 Class E & F or Schedule 2 Part 2 Class shall be erected, constructed or carried out within the area of domestic curtilage identified by this application.

Reason: To maintain the scale, appearance and character of the development and to safeguard the amenities of the locality.

4. All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

5. Prior to the installation of any lighting on the site details of the design, specifications, wattage, height, position and spillage of the lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall thereafter be installed in accordance with the approved details and retained as such for the lifetime of the development.

Reason: To safeguard the amenities of the locality.