

Application No: 11/0753C

Location: MOSS NOOK COTTAGE, 9, BACK CROSS LANE, CONGLETON, CW12 3HT

Proposal: A Garden Fence with Pedestrian Gate for Access to Maintain Service Area

Applicant: Ms P Dawson

Expiry Date: 11-May-2011

**SUMMARY RECOMMENDATION:**

APPROVE subject to conditions.

**MAIN ISSUES:**

- Principle of Development
- Impact on Character of Russell Close
- Highways & Parking

**1. REASON FOR REFERRAL**

Councillor P. Mason has called this application in for consideration by the Southern Committee as “residents have concerns about the appearance of the fence and parking issues which may contravene policies GR2 and GR6. There will be also be a “loss of privacy, visual impact and traffic generation”.

**2. DESCRIPTION AND SITE CONTEXT**

This application relates to a parcel of land that forms part of the residential curtilage of the property known as ‘Moss Nook Cottage’, 9 Back Cross Lane in Congleton. The land is currently overgrown and benefits from some screen planting around the perimeter of the site in the form of some hedges. The land backs onto Russell Close, a modern housing development that terminates along the northern boundary of the site where there is currently a vehicular turning head. There are some mature Sycamore trees that are protected by Tree Preservation Order. The site falls within the Sandbach Settlement Zone Line and is not allocated for any other purpose in the adopted Congleton Borough Local Plan First Review (2005).

### **3. DETAILS OF PROPOSAL**

Planning permission is sought to erect a 1.2 metre high post and rail fence around the perimeter of the site where it bounds Russell Close. Pedestrian access would be provided via a gate directly off the turning head on Russell Close.

### **4. RELEVANT HISTORY**

14256/3 - PROPOSED KITCHEN AND BATHROOM EXTENSION, INTERNAL ALTERATIONS AND GARAGE – Approved 01.07.1982

35131/3 - CHANGE OF USE TO RESIDENTIAL CURTILAGE – Approved 16.12.2002

### **5. POLICIES**

#### **Regional Spatial Strategy**

DP1 Spatial Principles

DP7 Promote Environmental Quality

#### **Local Plan Policy**

PS4 Towns

GR1 General Requirements for New Development

GR2 Design

GR4&GR5 Landscaping

GR6 Amenity and Health

GR9 Accessibility, Servicing and Parking Provision

#### **Other Material Considerations**

### **6. CONSIDERATIONS (External to Planning)**

#### **Environmental Health:**

No comments received.

#### **Highways:**

No objection - The detail of the application shows the fence-line to be behind the service strip, which is acceptable. The pedestrian gate will take access onto the joint-use surface of Back Cross Lane - which is a combined pedestrian/vehicular surface. Therefore with the property having a frontage to Back Cross Lane, it does not seem unreasonable that they take a pedestrian access from it.

There may be local concern over the parking of cars in the turning head of Back Cross Lane (which would cause obstruction) however this could not be controlled under this application. The police have the option to move vehicles under the Obstruction ruling (Town Police Clauses Act).

### **7. VIEWS OF CONGLETON TOWN COUNCIL**

No comments received.

## 8. OTHER REPRESENTATIONS

Letters from 5 neighbouring properties have been received objecting to this application on the following grounds:

- The plan shows an 'existing pedestrian access'. This was only created recently by removing a section of an existing kick rail fence
- Direct pedestrian access off Russell Close constitutes a health and safety issue
- There will be conflict between pedestrians and vehicles
- The proposal will lead to parking problems
- Russell Close was designed with an open aspect in terms of front gardens
- There is no need for the fence of the gate
- The proposed fence and sheepwire would not be appropriate and would harm the aesthetics of Russell Close
- The applicant was given permission to fell a TPO Ash tree that was in direct line between the applicant's garage and Russell Close however, the stump should have remained in situ but was fully removed leaving a huge gap in the boundary
- The replacement tree had to be planted as near to the base of the removed tree however it was planted some 5-6ft away and does not therefore comply with the condition
- Given previous non-compliance with previous consents, residents are concerned that the applicant will not conform to any future requirements
- Security – the gate will create easy access to the far end of the cul-de-sac for thieves
- Residents believe that it is the applicant's long term intention to put a an access driveway into their property from Russell Close
- Russell Close has no pavements so the parking of cars is dangerous as the views around the corner are obscured by planting
- During autumn and winter, when the leaves drops off the foliage, residents on Russell Close will have to look at a ranch style fence

## 9. APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted a letter in response to concerns expressed during the consultation period. The points raised are summarised as follows:

- The proposed fence is required to make our garden safe for children to play and to keep our garden and property secure.
- There is a matter of a health and safety issue of dog's droppings & dogs urinating in our garden used as a '*common land*' by some of the neighbours in the area
- The gated entrance and exit is required so that we can get a mower out to mow the service area.
- The gap where the previous TPO Ash tree was situated has made a temporary pedestrian way into our garden and not, as suggested in the objections, directly onto Russell Close. The hedge on either side of the felled tree has already begun to grow back together and in the near future may naturally close the gap.
- There is an issue of parking alongside our garden border on Russell Close.
- To clarify, we do not park our vehicles on Russell Close neither do our friends or family.
- The post and rail fence will not even be visible for the most part.

## **10. OFFICER APPRAISAL**

### **Principle of Development**

The application site is located within the settlement zone line for Congleton where according to Policy PS4 there is a general presumption in favour of development provided that it is in keeping with the town's scale and character and does not conflict with other policies. The land subject of this application was a spare redundant piece of land that was left over following completion of the development on Russell Close. Moss Nook Cottage subsequently purchased the land and then the use of the land was changed to residential curtilage by virtue of planning ref; 35131/3. The principle of the use has already been established and therefore the key issues for members to consider relate to the impact that the proposed fence would have on the character and appearance of the street, highways considerations and any other issues raised by representation.

### **Impact on Character of Russell Close**

In order to enclose the land and incorporate it fully into the front garden of Moss Nook Cottage, the application proposes the erection of a 1.2-metre high post and rail fence behind an existing hedge that runs around the perimeter of the site. The proposed fence would be reasonably well screened by existing vegetation and the submission indicates that any gaps in the vegetation would be in-filled. The fence itself would not appear intrusive given that it would be low in height and because it would be of a post and rail construction and not a solid close-boarded fence. With respect to comments regarding the proposed chicken wire, this would not appear prominent or intrusive for the same reasons already discussed. Subject to the supplemental infill planting being secured by condition as part of a landscaping scheme, the proposed development would not materially harm the character or appearance of the area. The open plan aspect of Russell Close would be retained. As such the development is found to be in accordance with Policies GR1, GR2 and GR6.

### **Highways and Parking**

Residents of Russell Close are concerned that the proposal will lead to the applicant and visitors parking on the head of the cul-de-sac and causing an obstruction. Whilst vehicles could park on the head of the cul-de-sac, this would be a matter for the Police and not the Council. The Police could exercise their powers under the Obstruction (Town Police Clauses Act) ruling to move any vehicles deemed to be causing an obstruction. In the absence of any objection from the Strategic Highways Manager, it is not considered that the proposal would give rise to highways or parking issues within the Council's control.

### **Other Issues Raised by Representation**

Neighbours have raised additional concerns with respect to crime and security. Some residents consider that the provision of a pedestrian gate may lead to thieves being able to quickly access Russell Close from Back Cross Lane to the west via the applicant's property. Whilst pedestrians could access the applicant's property from Back Cross Lane and leave via the proposed pedestrian gate on Russell Close, it is not considered that this would sustain a refusal of planning permission. In any event,

the position of the proposed gate is well overlooked by the properties on Russell Close and therefore in this regard, the passive surveillance is good.

Objectors believe that it is the applicant's long-term intention is to provide vehicular access from the driveway directly onto Russell Close. This application does not propose a new vehicular access. Any such proposal would have to be considered under a future application. Resident's are also concerned about non-compliance with previous consents. Whilst these concerns are noted and have been investigated separately, the Council can only assess what is put before them. If the applicant deviates from the approved details or any conditions attached to any permission, this would be a matter for enforcement to investigate.

## **11. CONCLUSIONS AND REASONS FOR THE DECISION**

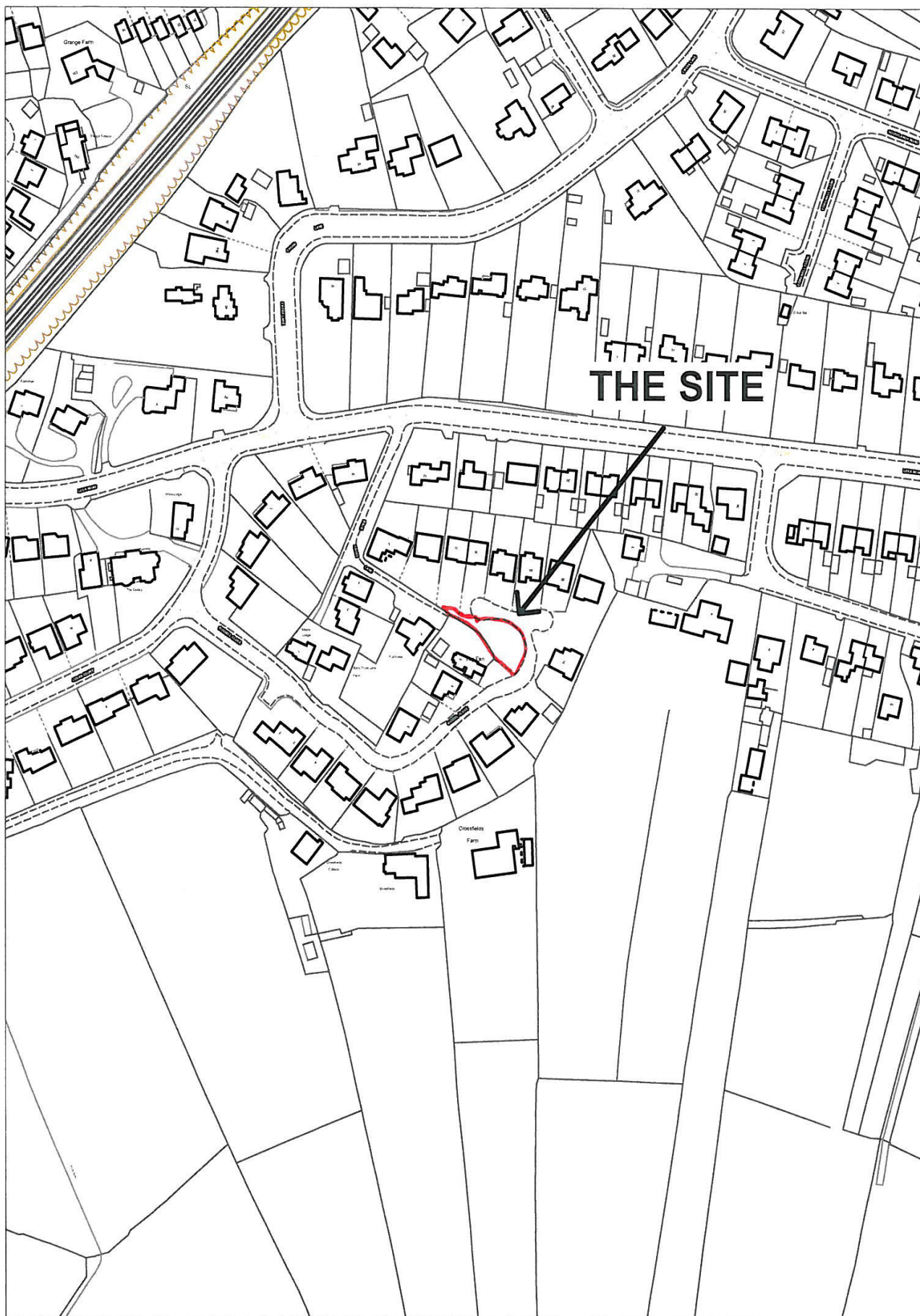
The use of the land as garden has already been accepted. The proposed fence would be reasonably well screened by existing vegetation and any gaps would be in-filled with further planting. Subject to compliance with conditions, the proposal would not materially harm the character or appearance of Russell Close nor would the residential amenity of the neighbouring occupant's be materially harmed. Any parking deemed to be obstructing the highway on Russell Close would be a matter for the Police and could not be controlled or enforced by the Council. Consequently, it is not considered that the concerns expressed by the Local Ward Councillor or the neighbouring residents would warrant a refusal given that the proposed development accords with the requirements of the relevant policies of the adopted Congleton Borough Local Plan First Review (2005). As such the proposal is deemed to be acceptable and is recommended for approval.

### **RECOMMENDATION:**

**APPROVE** subject to the following conditions:

- 1. Development to commence within 3 years**
- 2. Development to be carried out in strict accordance with approved plans**
- 3. Materials as per application**
- 4. Scheme of Landscaping to secure infill planting to be submitted to and approved and implemented within first planting season**
- 5. 5 yrs maintain planting**

**Informative:** The applicant is reminded that this application does not grant or convey consent for a vehicular access. Any future application for a vehicular access directly off Russell Close would be assessed on its own merits.



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