

RE: PEN ref: 190684 – Risboro, Nant Mawr Road, Buckley

Meeting held on 22nd February 2018 at 10am

Present:

- Mr John Bellis (Complainant) of No.5 Dawn Close, Buckley
- Mr Mark McLaughlin (Complainant) of No.68 Princess Avenue, Buckley
- Cllr Bithell
- Cllr Philips
- Cllr Williams
- Matthew Georgiou (MG) – FCC Senior Solicitor
- David Glyn Jones (DGJ) – FCC Team Leader (South) Development Control
- Katie H Jones (KHJ) – FCC Planning Officer (Enforcement)

Absent:

- Mrs Rebecca McLaughlin (Complainant) of No.68 Princess Avenue, Buckley

Cllr Bithell opened the meeting and all individuals were appropriately introduced and addressed.

Cllr Bithell invited the complainants present to open the meeting and opportunity was given for both complainants to raise their objections and concerns regarding the development on land at Risboro, Nant Mawr Road, approved under reference 052513 – CONSTRUCTION OF 6 2-STOREY DWELLINGS (the Development).

Mr John Bellis comments as follows:

The application went before committee and was approved 12 November 2014. The committee report states that a separation distance of 18.5m can be achieved in relation to the relationship of plots 5 & 6 and no.5 Dawn Close. Mr Bellis states that had this figure been met and thus in accordance with the committee report then he would not have felt the need to complain to planning enforcement regarding a breach.

Mr Bellis mentions the land owner (Mr Ames) and applicant removing a mature hedge which abuts the party boundary between the site and the rear garden of no.5 Dawn Close. The hedge was proposed to be removed, but by its removal Mr Bellis claims this reduced the separation distance that could be achieved. At this point Mr Bellis reported his complainant to planning enforcement, PEN ref: 184849. This resulted in Mr Bellis receiving a letter from DGJ dated 22/03/17.

Mr Bellis explains that DGJ had investigated the complaint and as a result a site visit was made to take measurements. Mr Bellis states that the measurements were only taken from within the site and not from his side of the property. Mr Bellis states DGJ relied upon the os maps/plans in order to derive the measurement depth of the rear garden of no.5 Dawn Close, this being 5.5m. Mr Bellis contests this and states that the actual depth of his rear garden is 4.01m. This has reduced the separation distance.

Mr Bellis also states the DGJ made claims that Mr Bellis' property has been built in the wrong place as it does not correlate with the os-mapping data.

10 May 2017 Kevin Shone (Agent), Mr Ames (Landowner/Applicant) and R Sheppard (Contractor) were invited to a meeting at Mr Bellis' property. Mr Bellis states that the Planning Dept was informed of the meeting, but did not send representative.

Mr Bellis states that he has made continued requests to Mrs C Morter (Enforcement Officer) to issue an Enforcement Notice due to the discrepancy in distance and subsequent breach.

Mr Bellis' has been in ongoing communication with Planning Enforcement.

Mr Bellis attained a copy of the application file for his property in order to prove that his property is built in the correct location as per the plans. The original consent for the extent of the site for Dawn Close was also obtained (Application reference numbers were not disclosed). Mr Bellis states that there is a condition on that consent specifically relating to the need to retain the hedge.

MG & DGJ state that the removal of the hedge is considered to be a civil matter and thus will not be discussed further. Mr Bellis' accepts this.

Mr Bellis believes that the hedgerow boundary is under the ownership of the occupiers of Dawn Close.

Mr Bellis states that Mr Ames confirmed that the distance achievable ranges between 16.2/16.5m – Mr Bellis comments – 'Why has the development been allowed to continue?'

Mr Bellis points out a letter received from Mr Ames to the planning department and case officer during the application determination. DGJ and MG review but make no comments.

Mr Bellis continues to raise his concerns regarding the size of the site having always been an issue. Mr Bellis closes by requesting that an Enforcement Notices is issued.

Mr Bellis hands over to Mr Mark McLaughlin

Mr McLaughlin opens by distributing copies of documentation he had produced and will refer to, to all that are present.

Please see attached Appendix A of the documentation received from Mr McLaughlin and the text to which he reads from. This is included to avoid any ambiguity in the minutes of the meeting.

In addition to the documentation provided, Mr McLaughlin states the MP M Tami and the late C Sargent were involved by the objectors.

Mr McLaughlin asks

Were surveys of the site and rear gardens of the properties adjacent carried out?

Was a land registry title provided?

Mr McLaughlin states that the development causes loss of privacy and refers to the 25 degree rule for loss of light.

Mr McLaughlin proposes that the development is not compliant with national and local planning policy. Mr McLaughlin apologises to Cllr Bithell for his aggressive manner of late, but feels that the route involving the Ombudsman would not provide a clear justice of the matter and would be exhaustive of time and expense.

Mr McLaughlin requests a letter from Planning Enforcement regarding the position and the approach the Council will take. Mr McLaughlin closes.

DGJ refers to the complainants claims and states that precedence does not set a standard. The hedgerow matter is between Mr Bellis and Mr Ames.

DGJ states that planning enforcement will exercise its judgement with regards to the potential harm that is consequential to the separation distances.

DGJ confirms that the measurements taken at Mr Bellis' property are the same as Mr Bellis measurements. This is not disputed.

MG states that he wishes to refrain from providing advice at this stage, as his duty is in the interest of the Council.

Mr Bellis states that he wishes for the application to be returned and re-determined by committee in light of the true separation distances achievable.

Cllr Philip asks how long this complaint has been going on for?

Cllr Bithell asks Mr Bellis if Mr Ames said he would replace the hedge for like for like. Mr Bellis said that there is little point as the hedge was removed in 2004 despite Mr Bellis maintaining said hedge.

DGJ refers to safety issues regarding ownership disputes are not matters that can be dealt with by Planning Enforcement.

Mr Bellis states that the shortfall is on his side at no. 5 Dawn Close, but has made attempts to invite officers to his property in order for measurements and considerations to be made. Mr Bellis states that he is not opposed to the development or what was originally consented. Ultimately Mr Bellis wants plots 5 & 6 to be demolished. The only mitigation possible are for the proposed dwellings in the respective plots to be single storey. However, Mr McLaughlin adds that he cannot see any mitigation that would ease the situation.

MG refers to timescales in order for a formal position to be taken. MG proposes a decision within 21 days unless otherwise agreed.

All individuals agreed to this and the meeting was closed.

Meeting closed – 10:54 am.

Original Planning Proposal in 2014. No measurements included until nearly 3 years later.



References to Space around Dwellings



Project Proposed Residential Development for 6nr two Storey Dwellinghouses at Land Formally Known as Risboro House,
Buckley, CH7 2BR

JIG/1195/14

Initial Date July 2014
Local Authority Report Design and Access Statement
Design Stage C

1.5 Pre-Planning Application Discussions

1.5.1 A meeting between Mr G. Ames, JIG Architects Ltd and Flintshire County Council Planning Department (Mr David Glyn Jones), took place in September 2013 and subsequent email correspondence and telephone conversations have led toward the formal Full Planning submission. The meeting was arranged to discuss the proposal as a whole, taking into consideration the impact, setting and access to the proposed development. JIG Architects Ltd were advised to contact the Highway Department for consideration of access point, parking and Highway requirements. Flintshire planning department advised the site fell within the development area and as long as the 'Space around Dwellings' is achievable taking into account the site levels then the development could gain support.

Concerns has been raised that the proposed units fronting onto Princess Avenue are of a height and relationship which would have an overbearing impact upon adjacent properties and adversely affect amenity. These dwellings are proposed to occupy a position which is at a level some 1.35 – 1.55 metres below the level of the bungalows on Dawn Close to the rear. Separation distances of 18.5 metres from the propose rear elevation of the dwellings to the bungalows is provided. Whilst this is shorter than the 21 metres advised within Local Planning Guidance Note 2 : Space about dwellings, I am of the view that the difference in levels, mature nature of the hedgerow between the site and the fact that ground to ground level intervisibility is entirely obscured combine to mitigate against this shortfall.

Figure of 5.5m at No5 Dawn Close has been achieved by measuring OS or spatial mapping



Problem Area with distance measurements explained



True Distance for Separation 16.2m



Material Planning Consideration – Loss of Privacy



Page 1 – historical narrative

Application passed in NOV 2014 with no measurements

Not to scale

10 page objection pointing out site inaccuracies

Numerous objections due to space around dwellings plots 5-6

By scaling No5 Dawn Close is 18.5m

Cannot fit development into site

Over 2 years before measurements submitted

Page 2 – Reference to 18.5m

DAS last sentence – gain support if space around dwellings is achieved

Planning Officers Report to Committee – 18.5m provided

Development never had space around dwellings – reduced to 18.5m with mitigating circumstances

Site Levels 1.35-1.55m difference. Geology dictates only slightly lower

Mature Hedgerow – developer removed in Jan 2017

Page 3 – Site Plan Oct 2016

Site cleared excavation foundation in Feb 2017

Apparent to me using Mk1 eyeball that 18.5m never existed

Numerous letters of complaint submitted to Head of Planning in Feb – Mar 2017

Explanation given distance was achieved of 18.5m - 13m for site and 5.5m for Dawn Close

Page 4 – Flintshire Mapping

Spatial mapping showing distance of 5.5m

Taken from OS mapping – more on this later

Page 5 – Overlay with problem

Problem with measurement

Developer has removed boundary hedge, measured on site to Mr Bellis's fence which sits within the 5.5m zone to achieve 13m from Plots 5-6 to red line. Land is not in the developer's control.

Spatial mapping used to measure No5 Dawn Close to Yellow Line overlapping the land between red and yellow line, thus measuring twice – error caused in excess of 2m

Page 6 – Google earth with overlay

Simple google overlay showing measured distance of 16.2m

Surveys use EDM and Total Station to achieve triangulation and trilateration – this occurred on site

Surveyor and developer have blamed bungalows in wrong place – wrong, road in wrong place wrong. Even if they were, these were built over 30 years ago and must be taken as is, they are not.

Residents having to defend irrelevant suppositions – Only thing they have not blamed is Global Warming

Indicative of shifting of blame – abrogation of responsibility for separation distance

Submitted formal complaint which concluded in July 2017 that the neither developer or planning dept were at fault, it was OS

Worked with OS for many years – aware of its strengths and limitations

Spoke to OS, explained scenario and they were rather miffed

Clear disclaimers are in effect

0.5mm 1/50 in error on 1:1250 scale map can cause error of 625mm on ground

Boundaries Section 12 OS Act 1841 points out that it does not grant power to ascertain boundaries – reflected in LRA 2002 Sect 60 – show general boundaries

Limitations on OS mapping Accuracy- does the scale of the map require certain features to be omitted for the sake of clarity? buildings smaller than 8 square meters in extent are usually omitted;

bay windows and porches are omitted.

Generalisation: does the map scale require certain features to be shown out of their correct position for the sake of clarity? where both features are too important to omit, then it may be necessary to displace one of them in order to maintain a minimum distance - two detached houses with a gap between them of between 1 and 2 metres will be drawn at 2 metres apart on a 1:2500 scale map, whilst two detached houses with a gap of less than 1 metre between them will drawn as if they were semi-detached houses on a 1:2500 scale map.

The developer letter 12 May 17 to Planning Dept has acknowledge 17m (wrong measurement) and hand written about being convinced hedge is in his ownership. Many people convinced earth is flat – this does not make it so – evidence based - this case, I believe OS is accurate at marking boundary at 5.5m - Mr Bellis has witness statements showing no fence – hedge was boundary, aerial photography circa 1989 showing hedge with no fence, planning condition placed on developer of Dawn Close that hedge was to remain

Developer has mentioned tightly constrained to East. Confined to boundaries of land owned – developer has exceeded these boundaries west and attempted to exceed at east and north.

Regardless of where the boundary lies, HE HAS ONLY 16.2 m separation distance.

Page 7 - Windows

View does not encapsulate to closeness of principle windows to full effect
Material Planning Consideration 2 m closer – 25% reduction - loss of privacy – unacceptable loss of privacy both No5 and future residents of plot 5-6
25 degree rule – 2m window – project 25 degrees – if intersected showing unacceptable level of massing, over dominance, overshadowing
If allowed to remain, stand as edifice to incompetence and greed and will give green light to developers to disregard space around dwellings and build inappropriate developments contrary to PPW Chapter 9, HSG8e FUDP and LPGN No2.

Conclusion

Who is responsible for measurement – ultimately the developer – Planning Dept cannot measure all distances – burden of proof balance is wrong
Enforcement action needed effective immediately
Material Planning Consideration – new planning application

Allow build – NO

Ombudsman – NO

JR – Must have decision and reasons

