

# Appeal Decision

Site visit undertaken on 3 January 2019

**by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

An Inspector appointed by the Secretary of State

Decision Date: 13 March 2019

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**Appeal Ref: APP/F4410/D/18/3217405.  
6 Brookfield Mews, Arksey, Doncaster, DN5 0UB**

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr. Martin Cartwright against the decision of Doncaster Council
  - The application, ref. 18/01994/FUL, dated 9 August 2018, was refused by notice dated 25 October 2018.
  - The development proposed is the erection of a garden wall to front of property (retrospective) as well as the addition of railings and gates.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. I have taken the description of development from the Decision Notice rather than the application form as this is more concise.
3. The Appellant has requested that the railings and gate be removed from the appeal decision and that the appeal be determined solely on the brick piers and the wall.
4. Given that this Appeal predominantly revolves around the principle of such a wall being constructed on the service margin, I have applied the 'Wheatcroft Principles'<sup>1</sup> and conclude that the acceptance of this amendment would not deprive those who should have been consulted on the changed development or the opportunity of such consultation. Consequently, I see no prejudice in basing my decision upon solely the wall and piers, without the railings or gates.

## Main issue

5. The main issue is the effect of the development upon highway safety in terms of visibility, use, access, parking and manoeuvrability.

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<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

## Reasons

6. The appeal property lies to the end of a cul-de-sac where a 1.8 metre service margin is placed from the road edge on both sides of the road. This land is classed as public highway irrespective of land ownership.
7. The Appellant has erected a brick boundary wall alongside the road edge which encloses the service margin, so the effects of the development are already appreciable. Whilst no actual footpath has been constructed to the front of the appeal property, there is a clear service margin extending around the edges of the properties that front this particular cul-de-sac and which includes the appeal property. This is intended to act as a pedestrian refuge; to allow for the installation of utilities and services; and to ensure that the emergency services and other large vehicles are able to access and manoeuvre within the cul-de-sac.
8. Whilst I don't doubt that the Appellant has acted in good faith in the construction of the wall, and that the Appellant maintains ownership of the entire plot, the wall projects forward to the road edge and is not set back within the service margin to the extent of the remaining dwellinghouses within this cul-de-sac. I note comments in the Appellant's Statement with regards to ownership, however this will be the same scenario as each of the other residents within the cul-de-sac who also own all of the property, but maintain the service margin, even though there may be no physical marker to delineate the space.
9. Although the wall is 84 centimetres tall, the piers (excluding coping stones) reach a height of 1.32 metres and are of quite thickset and solid construction. I note comments that the Appellant believes that there is 'no material change to the access road,' however, in my mind, the loss of the service margin is significant. Given the curvature of the road at the point of the Appeal property, the piers would be seen together to present a more solid screening and further restrict and erode the current level of visibility splays of both pedestrians and vehicles entering and exiting the end of the cul-de-sac.
10. Although I acknowledge the Appellant's comments with regards to the low speed in which vehicles will be travelling along the cul-de-sac, and the slight widening of the road at this point, the further erosion of visibility has the potential to increase the likelihood of accidents to both pedestrians and vehicles. This situation is also accentuated by the parking of vehicles on the roadway which will further decrease the visibility.
11. In the recent short time that the wall has been constructed, it may not have been struck or resulted in an accident as yet, however a wall in this position does increase the likelihood of this occurring and associated accidents and injuries as a result. Emergency vehicles, delivery vehicles and refuse vehicles, some of which may not be used to manoeuvring within this space, may require this service margin to facilitate their entry and exit from the cul-de-sac, increasing the likelihood of a collision with the wall due to the narrowing of this space.

12. The Appellant has submitted letters from utility companies that state that the area to the front of the property does not contain any service infrastructure. However, this does not preclude the area being used for the installation of utilities in the future.
13. The Appellant states that the Ordinance Survey (OS) Master Map layer does not show the service margin and that the Land Registry Title Plan has a dotted line to the front of the property. However, whilst the OS Master Map is based upon land registry data, they are not land registry plans and should not be used in this way.
14. Whilst I note comments from the Appellant's Statement that the neighbouring cul-de-sac of Chadwick Gardens does not have service margins, this is not a comparable situation as the appeal property which is placed within a mews type development with curved cul-de-sacs which increases the need for appropriate visibility splays and service margins.
15. Consequently, I find that the development is detrimental to highway safety and the safe use, visibility, access, parking and manoeuvrability of vehicles. As such the application is in conflict with Policy CS14 of the Doncaster Council *Core Strategy* (which seeks high quality design, permeability and legibility) and relevant sections of the National Planning Policy Framework.

### **Conclusion**

16. For the reasons given above, the appeal is dismissed.

*J Somers*

INSPECTOR