

**PLANNING AND DEVELOPMENT COMMITTEE**

A meeting of the Planning and Development Committee was held on Friday 7 October 2022.

**PRESENT:** Councillors J Hobson (Chair), D Coupe (Vice-Chair), D Branson, B Cooper, C Dodds, M Nugent, J Rostron and J Thompson

**ALSO IN ATTENDANCE:** I Bailey, A Bennett, A Blyth, E Craigie (Teesside Live), Councillor C Hobson and S Woolridge

**OFFICERS:** P Clarke, C Cunningham, R Harwood, G Moore and S Pearman

**APOLOGIES FOR ABSENCE:** Councillors J McTigue and G Wilson

22/8 **DECLARATIONS OF INTEREST**

<b>Name of Member</b>	<b>Type of Interest</b>	<b>Item/Nature of Interest</b>
Councillor D Branson	Non-Pecuniary	Agenda Item 5, Item 1 - Grey Towers Village, acquaintance of an objector
Councillor D Coupe	Non-Pecuniary	Agenda Item 5, Item 1 - Grey Towers Village, acquaintance of an objector
Councillor J Hobson	Non-Pecuniary	Agenda Item 5, Item 1 - Grey Towers Village, Ward Councillor

22/9 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 2 SEPTEMBER 2022**

The minutes of the meeting of the Planning and Development Committee held on 2 September 2022 were submitted and approved as a correct record.

22/10 **SCHEDULE OF REMAINING PLANNING APPLICATIONS TO BE CONSIDERED BY COMMITTEE**

The Head of Planning submitted plans deposited as applications to develop land under the Town and Country Planning Act 1990.

**22/0240/FUL Retrospective alterations to retaining wall increasing the height/face of the wall and approval of facing materials at Grey Towers Village, Nunthorpe, Middlesbrough for Barratt David Wilson Homes - North East**

Full details of the planning application and the plan status were outlined in the report. The report contained a detailed analysis of the application and analysed relevant policies from the National Planning Policy Framework and the Local Development Framework.

The Head of Planning advised that the site was located within the Grey Towers development site, which was currently under construction. The site was located along the northern edge of the wider Grey Towers site and to the south of Brass Castle Lane and the existing hedgerow that separated the site from the road. To the east, south and west was the housing development site. To the north was an existing residential estate.

Retrospective permission was sought to make changes to an approved retaining wall and to agree the finishing materials used in the construction of the wall. The height of the wall appeared greater than approved, due to changes to the ground level at the base of the wall to the north. The ground levels at the top of the wall were in accordance with the approved plans.

A number of objections related specifically to the appearance of the wall due to the materials that had been used, namely the black/grey stones. Whilst the wall was currently visible in a couple of locations along Brass Castle Lane, the proposed landscape scheme aimed to significantly reduce and soften the appearance of the wall and the stones used in its construction. Evergreen Ivy climbers were proposed, those would climb the wall to mask it. In addition, the Ivy would be supported by a 50/50 Holly (also evergreen) and a Birch hedgerow

to be planted in front of the wall.

As a result of the landscape scheme, the materials used in the construction of the wall would become screened at differing times of the year, and as landscaping became more established. Therefore, visually, the colour of the stones used in the wall was considered to have limited impact within the area. The additional planting also had added benefits for biodiversity at the site and planned to provide further habitat for wildlife.

A number of comments had been received regarding the safety of users. The installation of railings was proposed above the retaining wall, which were in keeping with those approved on the wider housing development. The railings planned to provide a physical barrier to ensure the safety of residents.

The application had been previously considered by the Planning and Development Committee on 2 September 2022. At that meeting, the committee had agreed to defer the application in order to seek responses in respect of a number of questions/statements. A section of the submitted report included responses to the matters raised (see paragraphs 32 to 38).

A question had been asked in respect of who had decided the type of brick. It was clarified that the Applicant had chosen the brick type. It was highlighted that 'who' had made the decision on the materials was not a planning consideration, as it had no bearing on whether or not the material was acceptable in planning terms. As mentioned, as a result of the landscape scheme, the materials used in the construction of the wall would become screened at differing times of the year and as landscaping became more established.

A question had been asked in respect of who had increased the height of the wall. It was clarified that the height of the wall had not been changed, the base and top of the wall were as originally planned. What had changed was how much of the wall was exposed and visible. The Applicant had amended the angle of the embankment abutting/enclosing the wall. That change had been made during construction, due to issues relating to access for plant and machinery, construction, health and safety, ongoing maintenance and drainage. It was added that 'who' made the decision to change the height of the wall was not a material planning consideration, as it had no bearing on whether or not the wall was acceptable in planning terms.

A statement was made that the design of the wall impacted on the quality of the area. It was clarified that the analysis of the development (detailed in the submitted report in relation to amenity, design/streetscene, highways and flood risk) had concluded that the design of the wall did not have a significant impact on the quality of the area. It was highlighted that there was only one area of the wall that was particularly visible, at the entrance of Brass Castle Lane. However, the visual appearance of the finishing materials of the wall would be mitigated against through the implementation of the proposed landscape scheme.

A statement was made that, if approval was granted, people would erect oversized fences and walls. It was explained that a planning application had to be assessed in relation to national and local policy and guidance and material planning considerations. It was highlighted that a decision must not be made on the basis of something that may or may not happen, by people not associated with the Applicant or the development. Members were advised that consideration of the application would have no bearing on the enforcement processes that were currently in place to deal with any breaches of planning regulations, should they occur.

A Member raised safety concerns and queried the purpose of the wooden fence, which had been positioned on top of the retaining wall. The Head of Planning advised that both the construction of the road and the retaining wall had already received planning approval. Concerns regarding the safety of pedestrians and vehicles, due to the height of the road, would be mitigated against as part of the highways adoption process. In addition, a condition attached to the application planned to ensure that a safety risk assessment would be undertaken to determine the most appropriate highway restraint scheme for the top of the retaining structure. The Applicant advised that the wooden fence was a temporary measure and the installation of railings was proposed to provide a safety barrier for pedestrians.

A Member queried whether Ivy climbers would cause damage to the retaining wall. In response, the Head of Planning advised that as the Ivy climbers proposed were evergreen, the sound masonry and brickwork would be unaffected.

A Member queried when the retaining wall had initially received planning approval. In response, the Head of Planning advised that the wall had been part of a larger application seeking approval of a residential development (comprising 238 dwellinghouses with associated access and landscaping). The application had received approval in 2018. When considering the initial application, the impact of the development on the surrounding area and land levels had been assessed.

A Member raised a query regarding highway safety. In response, the Applicant explained that safety measures had been discussed and agreed with highway engineers. Not only would railings be installed at the top of the wall to provide a safety barrier for pedestrians, a double height containment kerb would be installed to prevent vehicles leaving the highway. The Head of Planning added that approval of the application would ensure that the highway restraint scheme received formal approval from the Local Planning Authority before being implemented (see Condition 2 detailed in the submitted report).

A Member raised a query about the steepness of the slope at the bottom of the wall. The Head of Planning advised that a steeper gradient had been granted approval. It was clarified that with the current slope, more of the wall was exposed. The Applicant commented that the stone base of the wall and the gradient of the slope ensured the wall was stable and structurally sound.

An Objector was elected to address the committee, in objection to the application.

In summary, the following points were raised by the Objector:

- Approval had been granted for a 1.2 metre high wall and the wall constructed was 2 metres high. In addition, a wooden fence had been installed above the wall increasing its height further.
- The Applicant had been informed that the height of the wall did not comply with approved plans and that the finishing materials required approval from the Local Planning Authority. Regardless of that, the Applicant continued to erect the wall.
- The Applicant had deliberately broken planning laws and had ignored instructions from the Local Planning Authority to adhere to the pre-agreed plans - there needed to be consequences.
- Risk assessments should be undertaken in respect of the possibility of subsidence on the site, flooding and the suitability and validity of the wall.
- An additional safety barrier was required to ensure the safety of residents.

Another Objector was elected to address the committee, in objection to the application.

In summary, the following points were raised by the Objector:

- The materials used were inappropriate and not in keeping with the area.
- There had been complete disregard for nearby residents and local people.

The Ward Councillor was elected to address the committee.

In summary, the Ward Councillor raised the following points:

- The Applicant had been told that the type of brick used was not in keeping with the area but the construction of the wall continued.
- The 8ft wall was significantly higher than what had been agreed.
- As there was a road positioned at the top of the wall, there were concerns whether the installation of railings would be sufficient to ensure the safety of users.
- Implementation of a highway restraint scheme within 6 months was not sufficient. Given the potential safety risks to users, the scheme should be implemented immediately.
- The wall undermined the visual amenity and character of the area.
- When foliage reduced during autumn and winter months, the wall would be clearly visible from nearby properties.
- The application was contrary to:
  - Policy CS5 (Design) and Policy DC1 (General Development) requiring all new

development to be a high quality design in terms of layout, form and contribution to the character and appearance of the area. In addition, CS5 required all new developments to enhance both the natural and built environment; and

- MW7, requiring all developments to reflect the scale and character of the surrounding area.
- Approval of the application would set a precedent for others to erect walls that were higher than those permitted.
- Compensation for residents was required.

A Member raised further concerns in respect of safety issues. In response, the Head of Planning advised that health and safety issues were not material planning considerations and as previously stipulated the proposed double height containment kerb and the railings along the top of the wall would provide a significant physical barrier. Members were reminded that the road and the retaining wall had already received consent and the issues regarding safety would remain, regardless of whether the application before Members was approved or refused.

A Member queried whether the Applicant could change the colour of the wall and offer residents compensation. In response, the Head of Planning commented that the finishing materials of the wall would be mitigated against through the implementation of the proposed landscape scheme. Members were advised that the offer of compensation for residents was not a planning matter. It was added that the S106 funds, provided by the Applicant, would enable the delivery of improvement works in Marton West.

A discussion ensued and a Member commented that the retaining wall conflicted with policies DC1, CS5 and MW7.

**ORDERED** that the application be **Refused** for the reasons outlined below:

***The proposal by virtue of its scale, massing and materials is considered to be out of keeping with the local area contrary to the requirements of the Development Plan as set out in policies MW7 of the Marton West Neighbourhood Plan, and policies CS5 and DC1 of the Core Strategy.***

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**ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

#### **Weekly Planning Lists**

A Member highlighted the importance of elected members receiving email notification of the weekly planning lists. In response, the Head of Planning advised that at the present time, due to demands and increasing workloads, the department was unable to action the request. It was commented that Members were able to access the weekly lists via the planning portal.

**NOTED**

#### **Nutrient Neutrality**

A Member queried whether applicants had encountered delays, as a result of the guidance published by Natural England in respect of nutrient neutrality. In response, the Head of Planning advised the impact of the guidance was being effectively managed and the department was working closely with applicants to identify mitigations.

It was advised that recent Government plans aimed to place a new legal duty on water companies in England to tackle the long-term issue of nutrient pollution.

**NOTED**