

Neighbourhood Plan - An Open Plan Village.

1. Introduction.

- 1.1. When the modern Mickle Trafford was established in the mid-70s it was to be an open plan village. This paper explores whether that is to be continued into the future. It is a discussion paper to establish whether the mechanism for achieving this is to be included in the emerging Neighbourhood Plan.
- 1.2. As a paper contributions to the discussion would also be preferable in written form in order that the whole issue can be debated.

2. Planning Permissions.

- 2.1. Planning permission 6/2548 was for the majority of the houses to the west of Warrington Road built by Whelmar. The permission included a conditions that

5. Notwithstanding the provision of Schedule I Clause II (1) of the Town and Country Planning Act General Development Order 1973, no fence, wall, gate or other means of enclosure shall be erected beyond the foremost wall of any dwelling which fronts on a highway without the consent of the District Planning Authority.

6. Notwithstanding condition 5 referred to above, the properties fronting the highway known as The Street shall be provided with a stock proof hedge or fence and gates, details of which shall be agreed before the commencement of the dwellings and erected or planted before they become occupied.

- 2.2. The houses on the east side of Warrington Road were first built in three phases.

- 2.3. Phase 1 was planning permission 6/12111 is for 38 dwellings off Station Road and includes a condition that says:

6. Notwithstanding the provision of Article 3 of the Town and Country Planning General Permitted Development 1973 and Class 2 of Schedule 7 of that Order the permission of the District Planning Authority shall be required for the erection and construction of gates, fences, walls or other means of enclosure of any height within the curtilage the houses forward of the foremost wall of any house.

- 2.4. Phase 2 was for a further 32 dwellings under planning permission 6/2753 but the actual planning permission has a page missing on the CWaC website. Efforts are underway to find the missing page but it is likely a similar condition appears in that permission.

- 2.5. Phase 3 was under planning permission 6/2883 and was for 108 dwellings. Condition 4 says:

4. Notwithstanding the provision of Article 3 of the Town and Country Planning General Development Order 1973 and class 2 of Schedule 1 of that order the permission of the District, Planning Authority shall be required for the erection and construction of gates, fences. walls or other means of enclosure of any height within the curtilage of the houses forward of the foremost well of any house or forward of the building line to any road or major access.

- 2.6. The current General Permitted Development Order is the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and Schedule 2 Part 2 reads:

Class A – gates, fences, walls etc
Permitted development

A. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Development not permitted

A.1 Development is not permitted by Class A if—

(a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed—

(i) for a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;

(ii) in any other case, 1 metre above ground level;

(b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;

(c) the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or

(d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.

2.7. Thus the majority of the village should be open plan and fences forward of the building line require permission from the local planning authority.

3. Opportunity to Change or Reaffirm.

3.1. The Neighbourhood Plan provides the opportunity to consider if this is what the present residents want. All it would take is for any resident affected to make application under s73 of the Town and Country Planning Act 1990 to remove the restrictive condition. The Neighbourhood Plan could include a policy that such application would be supported or not.

3.2. Equally the Neighbourhood Plan could include a policy that an individual application made to the local planning authority, the successor of the District Planning Authority, in respect of a particular dwelling would be supported or not.

4. Village Design Statement

4.1. The Village Design Statement that was published in November 2003 contains various pieces of guidance that supports the open plan estates. It says:

The layout of Mickle Trafford is distinctive and characterised by a feeling of openness. Any future development should respect the existing pattern of development and should not result in the loss of open space adjoining a highway.

New development should be set back from the highway, should protect the existing trees and should not encroach upon verges.

and

Care should be taken to ensure that new development does not limit views along residential roads and that any front boundary treatment is low level.

5. Arguments for Change.

5.1. One argument is that by the planting of hedges, which are not development and therefore do not require planning permission, and the erection of fences, some with permission and some not, then may residents have already made a decision.

- 5.2. It may reassure some residents to know that operational development acquires immunity from enforcement action 4 years after it was substantially completed. There is a caveat if the operational development was intentionally concealed but it is difficult to envisage this applying to development within the front curtilage of a dwelling.
- 5.3. There is another argument that enclosed front gardens are more secure. There still exists an offence under the Vagrancy Act 1824 of being found in any inclosed yard, garden, or area, for any unlawful purpose.
- 5.4. A person looking through a window to see if a house can be burgled has not yet committed the offence of burglary but, if the front garden is inclosed, he may commit the offence under the Vagrancy Act.
- 5.5. There is also the concept of Defensible Space. Defensible space theory asserts that the design of physical space influences the way that both residents of an area and outsiders interact with that space, especially in urban areas. A space within or outside of a building is considered defensible space when the residents or occupants of the building are able to extend their personal control into that space. Such control may include both resident appropriation and surveillance of the space. According to defensible space theory, urban areas that are designed with defensible spaces promote positive social dynamics while also deterring negative ones such as personal and property crime.
- 5.6. A fenced front garden is better defended, and appears to be defended, than an open plan estate.
- 5.7. With an enclosed garden there is also likely to be then borders in front of the fencing that would lead to and increase in flowers and planting that would assist insects and bees for example.

6. The Discussion.

- 6.1. Of course, the ability to fence front gardens does not mean that enclosure would actually be required. The choice would rest with individual householders which is how it should be.
- 6.2. That choice should be based on an informed discussion. What was guidance in the Village Design Statement would be policy in a Neighbourhood Plan and would carry weight in consideration of any planning application. Responses to this paper are invited.