

Old Bassett Residents' Association,
c/o 15 Pointout Close,
Bassett,
Southampton SO16 7LS
30/07/2022



Dear members of the Planning and Rights of Way Panel,

Ref Panel Meeting – 02/08/22 – Agenda Item 22-00399-FUL #59 Burgess Road

Retention of “as built” retaining wall (retrospective).

We apologise for the unusual step of writing to you in advance of the panel meeting but feel it is imperative to relay our gravest concerns about the accuracy of the Case Officer report. It contains many factual errors and omissions and is very selective. Given the very limited time available at Panel, we are submitting to you some notes to provide a more complete and accurate picture. Below we provide illustrated summary notes to support our representation, and at the end a detailed critique of the Case Officer report. We apologise for the length of this communication but this application is not straightforward, it is complex, technical and has created numerous problems.

For governance and transparency, we are copying this to Democratic Services.

Our concerns about this application relate to serial, systematic and blatant abuse of the planning system by the Applicant, resulting in encroachment, in shoddy and inadequate construction and in multiple breaches of conditions. For some reason, Planning and Enforcement seem determined to facilitate this application despite all the evidence that would point to refusal. This has been compounded by multiple admitted failures and errors by both planning and enforcement officers in this case, which have been the subject of formal stage 1 and stage 2 complaints (not mentioned by the Case Officer). During the complaints procedure, Council admitted to multiple failings and errors in its handling of the application, including premature closing of enforcement investigations without proper scrutiny (now re-opened), approval of wrong documents etc. More recent information released under FOI requests confirms that evidence we provided under the complaints procedure and which was dismissed by Council Officers as “architect errors” was also correct (the Applicant unwittingly supporting our evidence) and an ombudsman complaint is now pending. Council errors have made an already bad situation worse and the Officer recommendation to approve will simply exacerbate the problem and attempt to shift responsibility for resolution of problems away from the Council Officers who have contributed to them and on to neighbours who have already suffered massive adverse impacts and stress and could be liable to substantial legal costs to remove proven and unauthorised encroachment.

We respectfully remind panel that this is a retrospective application to retain “as built” development and to further extend it. Our concerns fall into 3 broad aspects:

1.1 How the wall has been built

The rear of #59 was originally an upwards slope with 3 large oak trees. The Applicant felled the trees and then proceeded to excavate the entire bank to a 3m vertical face almost against All Saints’ Lodge. Under 19-

01530-FUL and 20-00631-FUL (variation of drainage conditions from 19-01530-FUL), the applicant sought to build a retaining wall. Because of the height (2.4m) and the wall strength needed to support the excavated face, Council required the applicant to provide structural engineering calculations and construction details based on them. These details were incorporated into the sectional plans approved for 20-00631-FUL, **and development was conditional on the approved plans being followed.**

However, when the Applicant built the retaining wall, they did not follow the approved, structural design in any way. Rather than build a double skinned wall with reinforced concrete infill, they built a single skin wall of blocks laid on side with concrete behind. Numerous other significant deviations from the structural details were undertaken, which neighbours documented in full with videos and photographs and proved to Council as part of the official complaint process.

Whilst the “as built” plans the applicant has submitted for this application reflect, at gross level, the change in wall from double skin to single skin, none of the other deviations are shown on the submitted plans. **In essence, what the Applicant is claiming through the submitted plans to have built in no way reflects what they have actually built. The plans are totally unrepresentative, false and fraudulent because they knowingly do not reflect the true “as built” development. This is abuse of the planning system. Council is fully aware of this yet the Case Officer report 5.3 states “The current drawings reflect what has been built”. This is simply not true and a gross misrepresentation of the facts.**

1.1.1 The footings are only a fraction of the stated size – the toe is massively undersize, the heel is effectively non existent and the downstand is of unknown depth. The footplate is supposed to be 1.8m front to back but we have proved it to be only 0.6 to 0.9m. In the photo below (sent to council) the wood panel is a standard 8’ x 4’ panel, the short side is 1.22m and significantly larger than the footing plate which is supposed to be 1.8m! **Development is demonstrably not according to the submitted plan but the Officer claims it is. Why?**



1.1.2 The rebar spacing is not according to the plan, only 2/3 the required number of upstand elements have been used.



They can be counted in these photos which were sent to council. Moreover, the upstand rebar was specified as 16mm. No evidence that 16mm rebar has been used is available and discarded scrap is 12mm (half the cross sectional area / half the reinforcing strength) so potentially $2/3 \times 1/2 =$ only $1/3$ of required level of reinforcement. **Development is demonstrably not according to the submitted plan but the Officer claims it is. Why?**

1.1.3 Rebar was required to be laid in a specific pattern of specific shapes to link upstand, downstand, heel and toe as one. Upstand rebar was required to be L-shaped and extend into the footings to link them with the upstand. However, straight bars were simply placed on top of the footings, meaning no integration of reinforcement between above ground and below ground elements.

Photos below show (a) prior to casting of the footplate, no upstand elements are present (b) upstand elements simply placed on footplate and held in position in a few cm of concrete.



These photos were also sent to council. **Development is demonstrably not according to the submitted plan but the Officer claims it is. Why?**

1.1.4 The backfill of excavation behind the wall was required to be free-draining gravel or pea shingle, to allow water from higher surroundings to soak away and then escape through weepholes in the retaining wall. The Applicant, acting as their own agent, was required under conditions to provide quality certificates for all imported materials. Under FOI we have established that the applicant has not supplied them, that the applicant claims not to have them and that the applicant claims that his contractors do not have them. The reason they do not have them is simple, they do not exist because the backfill has not been done with the required compacted, free-draining pea shingle or gravel, it has actually been done with clay previously excavated from the site. As a consequence there is no drainage, the ground behind the retaining wall is saturated, leading to collapse of neighbour fencing, and in heavy rains, water runs along the surface at the back of the wall and floods neighbouring gardens (see 1.3). **Development is demonstrably not according to the submitted plan but the Officer claims it is. Why?**

1.1.5 Council required the applicant to provide structural calculations and to undertake development according to those structural calculations, as detailed on the approved plans in order to ensure a retaining wall that was fit for purpose in holding back the higher ground of All Saint's Lodge. This wall has not been built according to those calculations, it is massively less structurally strong, less stable and less suited to the task it needs to perform, which is to protect neighbouring properties from collapse. Nor has it been built to the submitted, "as built", plans but in a demonstrably different, shoddy, structurally inadequate and underhand manner. The plans are false and fraudulent yet no one in Planning or Building Control will take responsibility for remedying this. We totally reject the Case Officer's assertion that planning is only concerned with gross appearance. We therefore request that Panel refuse this application and require the applicant to address the structural deficiencies which they have deliberately created through ignoring the approved plans and the structural calculations incorporated into them.

1.2 Where the eastern end of the wall has been built and how to resolve proven encroachment

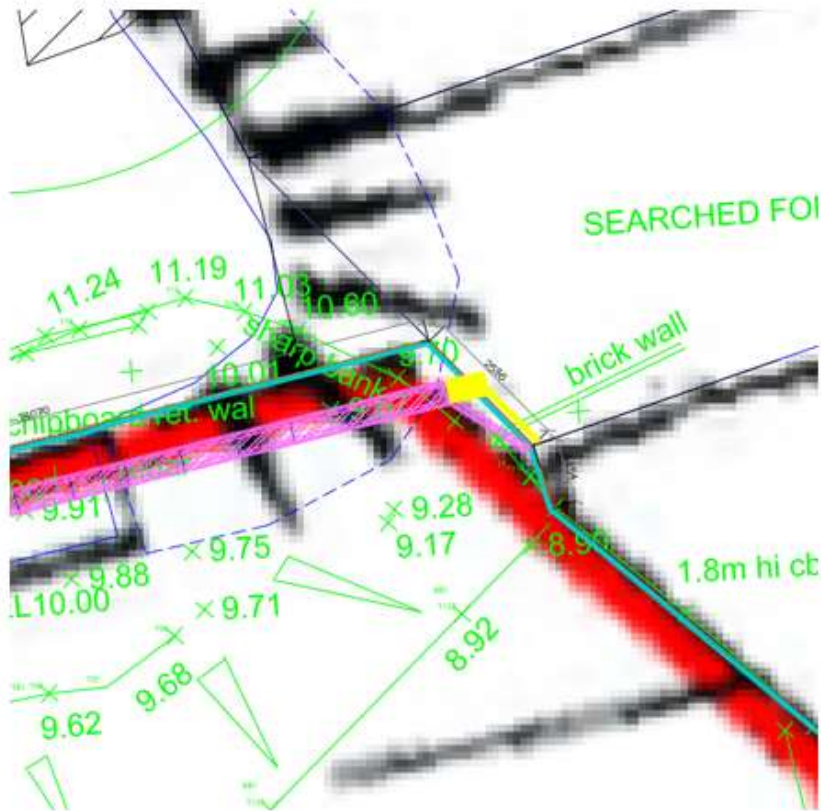
From the outset, it was clear that the applicant intended to aggressively encroach onto neighbouring properties, especially #27 Pointout Close. **Before the wall was built, affected neighbours wrote to Enforcement to alert them and were ignored. Enforcement simply refused to engage with the landowner. Council was informed by the landowner before building commenced, that permission would not be given for any encroachment. Things could have been stopped at this point but failures by Council Officers meant that they were not.** The Applicant has extended the retaining wall onto #27 Pointout Close and built a 1.8m high single skin block wall across the back of #27, entirely within #27's property, damaging the wall between #26 and #27 in the process. This wall is of very poor quality construction, with the piers on the structurally incorrect side and they then erected an orange plastic sheet several m high above it, which can be clearly seen from all neighbouring properties and the street.



From the very outset we supplied Council with copies of the land registry title deeds for #59 Burgess Road, #26, #27, #28 and #29 Pointout Close and All Saints' Lodge. These were all consistent and clearly identified the true boundary between #59 Burgess Road and #27 Pointout Close. However, the Applicant refused to accept this and insisted that OS data was the true authority for boundary data. OS has confirmed it is not, it only plots what it thinks it can see, the OS data is inconsistent and it does not reflect the boundary defined by the title deeds. Despite being fully aware, Council has seemingly never done anything to disavow the Applicant of his misinformed opinion and has consistently validated plans based on OS data.

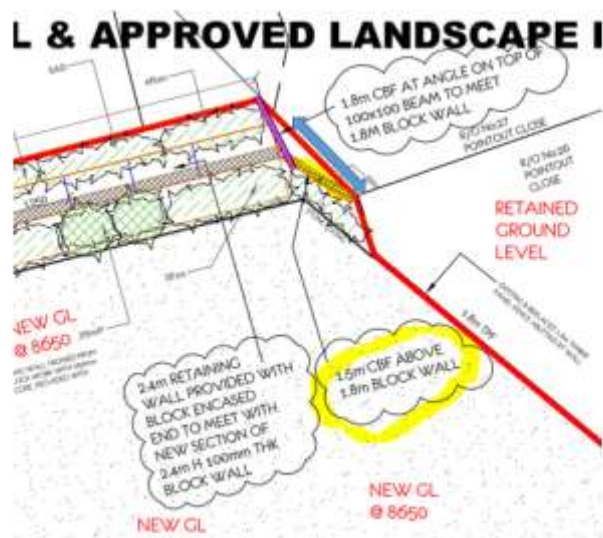
The case officer falsely claims an historical boundary dispute. The boundary has never been in dispute, it is unambiguous. The Applicant's understanding has been wrong and the failure of Council officers (both Planning and Enforcement) to correct the Applicant at any time has resulted in significant encroachment and a toxic situation with neighbours suffering verbal and physical intimidation when trying to explain the reality.

It is a criminal offence to knowingly make a false declaration on a planning application, and the applicant has done that multiple times. The Applicant, in all their previous planning applications has claimed ownership of all land affected by the proposal, contrary to the evidence of their title deeds which was pointed out to them by neighbours multiple times. Council has previously been provided with evidence in the form of text messages from the Applicant to a previous owner of #27 Pointout Close in which the Applicant was trying to purchase the ends of gardens in Pointout Close to gain a rear access route. The applicant knew full well that they didn't own the land but just went ahead with deliberate encroachment at a time when the owner of #27 was in a medically-induced coma with Covid and was powerless to prevent it. Finally a few weeks ago, the applicant submitted a Certificate B, which formally acknowledges that they do not own all the land. **A certificate B should be served at least 21 days before an application is submitted, not many months after.** It should also be publicised by council which it was not. Council could have dismissed the application at that stage and required a new submission based on correct ownership certificates and correct boundary placement but it did not. Then 3 new plans appeared, one of which overlays an approximation of the true title deed line on the OS data and shows clear encroachment and overbuild onto #27, albeit not as extensive as the actual encroachment.



Extract from PLAN_AND_TOPO_SITE_PLAN_OVERLAY-1675524 . Red = Applicant's version of title deed boundary (not 100% correct). Purple = applicant's lines showing end of retaining wall and single skin block wall. Yellow = our correction showing actual extent and orientation of built development.

Despite this, the remaining 2 new plans submitted at this time still use OS data to incorrectly define the boundary. They also clearly show the single skin wall in the wrong position and the wrong orientation. **The Case Officer report does not mention this. Why?**



In above, boundary Line is OS line, not title deed line. Actual position of 1.8m block wall is inset onto #27 and points in direction of blue arrow from end #26 / #27 boundary to end #27 / #28 boundary.



Whilst it is entirely legal for speculative planning consent to be granted for development on land that isn't owned by the applicant, providing that a certificate B has been supplied, no development on that land can take place without the landowners consent. **The owners of #27 do not consent and Council have been told that they do not consent. This is not a speculative application, it is a retrospective one, the encroachment already exists as the wall has been built. Even if Panel grants the application, that does not and cannot make the encroachment lawful without land owner consent. That consent will not be granted and therefore the encroachment must be removed.** The Case Officer is saying that getting this unauthorised development removed is not Council's problem. Council created this problem through failures by Planning and Enforcement officers, and it needs to help resolve it, not try to pass the buck and load affected residents with legal bills running into potentially £10,0000s as a result of needing to seek justice through the courts. **We request that the application be refused and that immediate and thorough enforcement be made against this encroachment, requiring, immediate:**

- **removal of the single block wall and its footings from #27.**
- **removal of the projecting end of the retaining wall back to #59's boundary and to make good the end face. Removal of this should also allow determination of the size of upstand rebar used.**
- **repair of damage to the boundary wall between #26/#27 using the original blocks for the sake of visual continuity.**
- **replacement with a boundary treatment that resides entirely on #59's property and is a maximum 1.8m high (as stipulated in the adopted Residential Design Guide (the Case Officer is factually wrong in stating 2.0m). If made of blockwork, this is to be of satisfactory quality block laying and pointing on both faces so as to not be harmful to neighbour amenity and with piers on the structurally-correct lower side (#59).**
- **To make good any infill required on #27 with certificated, quality topsoil.**

1.3 Impact on neighbour amenity

Notwithstanding, the obvious and serious impacts of aggressive trespass and encroachment on neighbours:

1.3.1 As a consequence of the failure to use the approved free-draining materials for backfill, and using excavated clay instead, there is no drainage from behind the wall and in heavy rains water does not soak

away as intended, rather it runs east along the surface at the back of the wall and waterlogs and floods neighbouring gardens.



This is a direct consequence of the applicants' failure to build to the approved design and needs to be remedied by the applicant through enforcement. Moreover it has resulted in waterlogging of All Saints' Lodge, such that fence posts have collapsed, the post holes are filled with water and posts and panels can no longer be adequately stabilised, compromising security of the property. It was the Applicant's responsibility to reinstate the fence and they have not done so.

3.2 The quality of the encroaching blockwork 1.8m wall and the treatment of the end of the retaining wall are a shoddy disgrace (see photos under 1.2 above). The applicant can't see it and doesn't care. Whether #27 has a shed towards the rear of their garden is immaterial to the argument, they still need to maintain their land behind the shed and therefore will see the blockwork. Moreover, #59 is lower so the piers need to be on the opposite side to resist pressure from behind. Notwithstanding that it is proven encroachment, it is also visibly detrimental and structurally compromised and it needs to be removed via immediate enforcement.

3.3 In this retrospective application, the Applicant seeks further, as yet unbuilt development in the form of a 1.5m high fence to be built on top of the encroaching 1.8m wall. This wall is built on someone else's property without consent and would create a boundary 3.3m high against the 1.8m standard stipulated in the Residential Design Guide. This is unnecessarily high, unacceptable, visibly-obtrusive to a number of neighbours and to the detriment of neighbour amenity yet the Case Officer maintains that it will not affect neighbour amenity. Nonsense. It will be clearly visible over the shed (which may also have to be moved because of flooding risk).



We submit that it should be refused and any boundary treatment limited to 1.8m total on the applicant's side and fully on the applicant's own property.

The Case Officer claims that it will not be visible from the street or neighbouring properties. That is also incorrect, it will be positioned where the unauthorised orange sheet shown below is currently positioned.



It is also structurally dubious. As previously demonstrated, this wall is very poorly constructed, with piers on the wrong side and it faces prevailing SW winds. No detail of how the fence would be attached to make it secure and safe for neighbours is provided.

3.4 In this retrospective application, the Applicant seeks further, as yet unbuilt development in the form of a 0.1m beam installed on the encroaching end of the 2.8m retaining wall with a further 1.8m fence on top. That makes a total boundary height of 4.7m. Exactly the same arguments as made in 3.3 apply to this even higher structure to be erected on someone else's property.

3.5 There is further built development and encroachment that the applicant has undertaken which is not shown on any of the plans, Between midnight and 5am on 26/06/2021, the Applicant erected an unauthorised 1.8m high fence which extends 2 panel widths perpendicular from the rear boundary of #27 Pointout Close, and an extra 1-2 metres further across their property This has since partially collapsed as the fence posts were unstable.. Further fence panels, rebar and very large concrete slabs were added in the following months. **This is not mentioned by the Case Officer, despite him being fully aware of it, having seen it in person and having been provided with photographs. Why?**



We submit that, contrary to the Officer's opinion, all of these represent clear and adverse impacts on resident amenity and request that the application be refused

Summary

This development, the Applicant's behaviour and Council officer's dismissive attitude to genuine planning concerns have been the cause of huge stress and detriment to local residents. This case has occupied 100s of hours of residents time double checking applications and plans, comparing ever changing plans to understand both documented and hidden changes and correcting numerous admitted mistakes by Council Officers(still ongoing), in whom they have entirely lost faith. This is not how the planning system should work. We humbly request that this application be refused for all of the reasons provided above and for the further detailed comments in the critique of the Case Officer report that follows.

Yours faithfully,

D.A. Johnston

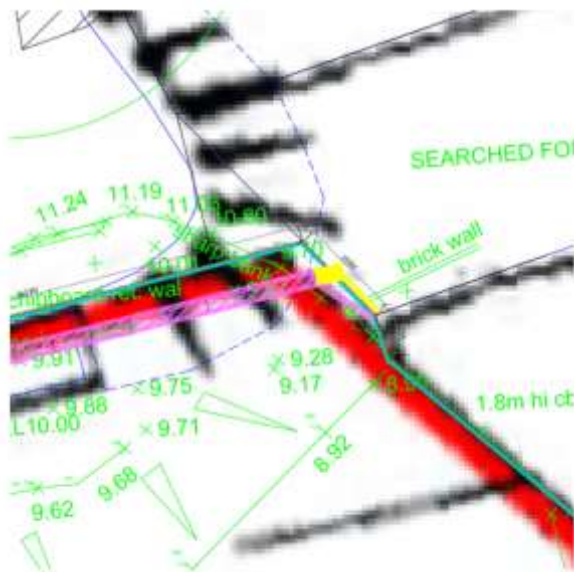
Dr David Johnston, Secretary and Planning, Old Bassett Residents' Association.

Comments on Officer Report

Report Section	Comment
Reason for granting permission <i>The Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive way</i>	In an attempt to obfuscate Council errors and Applicant abuse of the planning system, the Case Officer seems to be determined to get this application passed; being selective in fact and evidence. Had officers engaged equally with affected residents and done their job properly at the outset (especially Enforcement), then problems could have been prevented, rather than exacerbated.
Reason for granting permission <i>"as supported by the residential design guide"</i>	Which the case officer repeatedly misquotes. Maximum boundary is 1.8m, not 2m and interprets, boundary
2.2 <i>"This application seeks approval for the attention of the "as built" retaining wall"</i>	Actual "as built" is not what the submitted plans claim to have been built. The Applicant has submitted a completely fraudulent set of plans which do not reflect the built structure in any way except at the grossest level. The officer mentions the 1.5m additional fencing, but omits mention of the 1.8m fencing and omits the fact these are to be built on top of encroaching built structure taking boundary treatments to 3.3 and 4.7m respectively.
3.1 Relevant Planning Policy	The officer misquotes the residential design guide – it specifies boundary treatment to be 1.8m not 2m
4.1 Relevant Planning History <i>"The wall has not been constructed fully in accordance with the approved plans"</i>	The Officer conveniently makes no mention of the stage 1 and 2 complaints. The officer downplays the degree of non-compliance, the wall has not in any way, shape or form been built according to the approved plans.
5.2	Intent to encroach was obvious to neighbours at the outset yet Enforcement refused to engage with local residents to properly assess the evidence. Title deeds were submitted to Council in May 2021, but a plan showing a (simplified, not 100% accurate) title deed boundary line was not submitted until June 2022. Why was this not sought at the outset and why did council not inform the Applicant at the outset that the OS was not the boundary authority? There is no disagreement, the land registry boundaries are clear, consistent and unambiguous. The Applicant simply refused to accept the fact that the land registry is the boundary authority, not the OS and Council appears to have made no effort to correct them of that false notion. Had they done so, many of the resulting problems could have been avoided. Why were 2 other plans validated on the same day that showed a different and incorrect (OS) boundary line?

	<p>The Applicant and council have both finally admitted what we have been telling them for well over a year; that development has unlawfully been carried out over the boundary.</p> <p>The Applicant has not discharged their duty. They have simply discharged their duty to submit a Certificate B, thereby formally admitting encroachment.</p> <p>Whatever the Panel decision, development on land you do not own cannot occur without land owner consent. The Applicant's duty is to remove all development beyond their boundary until such time as permission is granted. That has not, and will not be given and Council has been told that. A decision to grant planning consent does not confer on the Applicant a right to retain the encroaching development and council has a duty to ensure that the Applicant understands this and immediately complies.</p>
<p>5.3 <i>"The current drawings reflect what has been built...."</i></p>	<p>This is a disgraceful and completely false statement. The current drawings do not in any way, except at the most gross plan level, reflect what has actually been built. The eastern wall is in the wrong place and at the wrong angle. The plans do not reflect the true(ish) boundary established by PLAN_AND_TOPO_SITE_PLAN_OVERLAY-1675524. None of the specified dimensions, spacing or structural aspects shown on the plans have been adhered to.</p> <p>Council is fully aware of all this and has been supplied with unequivocal evidence to that effect. The officer statement is completely without foundation.</p>
<p>5.6</p>	<p>If the application is approved that does not, and cannot, in any way regularise the encroachment. Therefore building works would be required to remove all encroachment. Whilst building the wall, the Applicant abused all of the environmental conditions that they had submitted, working evenings, night (even starting after midnight to secretly establish further encroachment in the hours of darkness), all weekend, bank holidays and, at times had daily bonfires. Council ignored all reports of breach of conditions and refused to accept photographic and video evidence of them. Therefore neighbours are rightly concerned that any remedial / restorative works required from the applicant will be undertaken in a similar cavalier manner with complete disregard to their own method statement and to the detriment of neighbour amenity.</p>
<p>5.7</p>	<p>The officer completely avoids answering the question. This is a retaining wall that serves a specific function, namely to prevent collapse of surrounding properties. Council required structural calculations to be submitted, and plans to be drawn up that reflected those calculations. The Applicant has then completely ignored all of these structural requirements resulting in a wall with woefully inadequate footplate stability, inadequate reinforcement, no structural integrity and no drainage. In the formal complaint process we specifically asked Planning to ask Building Control to assess whether the built structure was fit for purpose. It is irrelevant whether they normally inspect retaining walls and it is irrelevant that this wall is not on the public highway, neighbours are still members of the council-paying public. The specific request was</p>

	<p>made and it was not fulfilled, when it could have been. It seems inconceivable that no one in Council is responsible for ensuring the integrity of built structures that have gone through the planning process. Council required specific structural calculations for the original application, it knows that the built structure is massively under that specification, yet it has not undertaken any assessment of the built structure. Suddenly it no longer cares and it is now the neighbour's problem at the neighbour's cost. This is a shameful neglect of public duty aimed at absolving Planning and Enforcement for any responsibility for their many admitted failures.</p>
5.4 (sic) Consultation Responses	<p>Details are summarised, the Officer makes no mention that full photographic evidence was supplied.</p> <p>The Officer does not make any response to any of the multiple comments made here, he completely ignores them all and simply goes onto section 6</p>
6.2.1 Development on neighbouring land	<p>Neighbours have suffered more than anxiety; stress and verbal and physical abuse. They have also expended huge amounts of time and effort in this matter, because, as the multiple errors admitted to in the complaints process show, they cannot trust Council to do its job properly and have to scrutinise everything.</p>
6.2.2 Development on neighbouring land	<p>6.2.2 The Case Officer is incorrect, there has never been any doubt about the boundary; it is clearly shown on the title deeds. The Applicant has simply refused to recognise that the Land Registry is the authority, not the OS and it appears that Council has made no effort to correct the Applicant's claim, despite being in possession of copies of all the title deeds. Had the enforcement officer done their job correctly, inspected properly and not incorrectly and prematurely closed the investigation (which Council admitted they did but has never explained why they did), this situation could have been avoided. The investigation was then reopened as a result of the Complaint procedure.</p> <p>If this planning application is granted it will not regularise the existing physical encroachment if landowner consent is not given. Irrespective of planning consent, an applicant cannot build on someone else's property without the landowner's consent. That consent has not and will not be given, so all current encroachment still needs to be removed through immediate enforcement and any additional development that relied on those encroaching structures or otherwise encroaches cannot be constructed.</p>
6.2.3 Development on neighbouring land	<p>The Officer fails to mention that the Applicant's version of the Land Registry / Title Deeds boundary on PLAN_AND_TOPO_SITE_PLAN_OVERLAY-1675524 is not 100% accurate. Why?</p> <p>The Officer fails to mention that the true extent of encroachment is not shown on PLAN_AND_TOPO_SITE_PLAN_OVERLAY-1675524, the retaining wall extends further than shown and the single skin block wall on #27 is in the wrong position and orientation. Why?</p>



Yellow = true position.

As noted above, under 5.2 above. A Certificate B should be submitted by an Applicant to the land owner **at least 21 days before an application is submitted, not many months after and not several years after multiple equally incorrect applications have been processed.** It should also be publicised. Council says it received one comment. yet we were not informed and only found out when the owner of #27 contacted us to say he had received a letter from the applicant and didn't understand what it meant. How was it publicised?

At this stage, Council was perfectly within its right to cancel this application and require submission of a new application with new plans showing the correct boundary, yet it did not and on the same day as it validated PLAN_AND_TOPO_SITE_PLAN_OVERLAY-1675524 it validated a further plan RETAINING_WALL_LANDSCAPE_PLAN-1675511 with the original, incorrect, boundary!!!!

We therefore contest the Case Officer's claim that the application before panel is a valid application.

6.2.2
Development on neighbouring land (2 separate sections are numbered 6.2.2!)

Whilst the Case Officer is correct that, providing a certificate B has been submitted, **prospective** planning consent can be granted for development on land the Applicant does not own, they fail to state anywhere that any approved development cannot occur without landowner consent and if no consent is given, no encroaching development can occur. Council has been told that no consent will be given.

This is **retrospective** application, and if granted it has no legal authority to override landowner rights. If the landowner does not consent, the Applicant cannot claim that they have permission to retain the encroachment. The Case Officer does not mention this anywhere. The land owner does not and will not consent and Council has been told this. The breach of conditions occurred when there was no certificate B in place and therefore enforcement is the appropriate route to have it removed. The problems arose because of admitted errors and negligence in Planning and Enforcement. The

	<p>Case Officer makes no mention of how this will be resolved and council should not attempt to avoid responsibility for sorting it by making it the landowner's problem at massive legal cost which he knows they cannot afford.</p> <p>The Case Officer claims that character and appearance are all that matter, but does not address these. As evidenced in the letter, the build quality is disgraceful.</p>
<p>6.3.1 Design and character</p>	<p>The Case Officer is factually wrong on multiple counts:</p> <ul style="list-style-type: none"> • both the retaining wall and the 1.8m wall on #27 are clearly visible from Burgess Road. • The retaining wall is not capped with coping stones, it is capped with unsecured slabs. • Standard boundary treatment in the Residential Design guide is 1.8m not 2m. <p>We fail to see how the officer can claim that 3.3 and 4.7m high boundary treatments against a 1.8m standard are not dominant, overbearing, oppressive and against residential amenity. No justification for them is given.</p> <p>The Case officer Makes no mention of the shoddy construction of the 1.8m wall, with irregular blockwork and piers on the wrong side, and the absence of sealing of the end of the retaining wall, which are all completely against decent design and character.</p>
<p>6.4.1 Residential Amenity</p>	<p>We fail to see how the officer can claim that 3.3 and 4.7m high boundary treatments against a 1.8m standard are not dominant, overbearing, oppressive and against residential amenity. No justification for them is given.</p> <p>The fact that there is a shed towards the rear of #27 is irrelevant. The 3.3 and 4.7m boundary treatments would be clearly visible above (just as the unauthorised, orange screen is). Moreover, there is still a significant portion of #27's garden behind and to the sides of the shed which they have a right to enjoy without this towering above them. Because of flooding issues resulting from non-permeable clay backfill, the land owner may have to relocate the shed.</p> <p>The Case officer fails to acknowledge that both fences rely on existing encroachment to support. Seeing as that encroachment has to be removed, there will be nothing to support them on, so permission could not be executed.</p>
<p>6.5.1 Structural Stability</p>	<p>See comments under 5.7 above. If structural calculations were required for the initial plans (and proven to have been ignored) why are they suddenly not now required to determine whether a proven vastly inferior build, contrary to conditions and therefore subject to enforcement, is suitable for the massive load bearing it is required to service. It beggars belief that council is only concerned with how it looks. We made a specific request under the complaint process for the wall to be investigated and for council to undertake its own structural calculations based on the actual build and they have refused to do this, when they easily could have done. Once again Council is trying to make it someone else's problem.</p>

<p>6.5.1 Drainage Strategy.</p>	<p>The case officer comments are very economical with the fact. He mentions that the drainage strategy relied on a combination of the weep holes and a backfill with compacted free draining pea shingle and gravel but completely fails to mention that this hasn't been done. Backfill is non porous excavated clay from the site. As such, the required soakaway doesn't exist and the number of weep holes is effectively irrelevant because water isn't reaching them. In and after heavy rains nothing comes out of them.</p> <p>Under FOI we have determined that the applicant has been unable to fulfil conditions requiring quality certificates for imported materials. They claim that neither they, nor their contractor has them even though the Applicant as build agent, is legally responsible for compliance with conditions.</p> <p>Council has seemingly made no effort to physically check the backfill using cores from the weep holes, inspection cameras in the weep holes or excavation from the top.</p> <p>Why does the case officer fail to mention any of these material concerns that have all been documented and submitted to Council.</p> <p>Moreover, because the retaining wall has minimal toe, contrary to the original or new plans, any potential backfill volume is greatly reduced</p> <p>The consequence of backfilling with clay rather than creating a massive soakaway is that the higher ground behind the wall is saturated and therefore.</p> <ul style="list-style-type: none"> • the posts supporting the rear fence of All Saint's Lodge have insufficient support and have collapsed, taking the fence panels with them and cannot be re-erected securely, compromising the security and Privacy of ALL Saint's lodge • Rainwater from higher levels now runs to the back of the retaining wall and along it onto neighbouring properties, causing waterlogging and flooding. <p>Whilst the drainage engineer has stated that a reduced number of weep holes wouldn't make a large difference, that statement can only be true in the context of correct backfill, which has not been done.</p> <p>The Case Officer makes no mention of these serious adverse effects on neighbour amenity which will be permanent and are grounds for refusal.</p>
<p>Porous Surfacing and Surface Water Drainage at front of property</p>	<p>This is nothing to do with the retaining wall but we will address the Case Officer Comments.</p> <p>Porous paving is stipulated in the residential design guide and was approved under 19- -01530-FUL. The officer says that the relevant plan was not then carried through to 20-00631-FUL. Why was it not – it was the only plan that showed this feature. This is another example of unexplained officer negligence.</p> <p>The Case Officer says that planning consent is not required to retain the existing concrete. That is not what has been done and he is well aware of the fact. It has been overlaid with fresh concrete, raising its height significantly.</p> <p>Planning law is clear</p>

	<p><i>"You will not need planning permission if a new or replacement driveway of any size uses permeable (or porous) surfacing which allows water to drain through, such as gravel, permeable concrete block paving or porous asphalt, or if the rainwater is directed to a lawn or border to drain naturally."</i></p> <p>https://www.planningportal.co.uk/permission/common-projects/paving-your-front-garden/planning-permission</p> <p>The Case Officer is totally wrong. This solid, impermeable replacement slab does require planning consent Moreover, it diverts surface run off to a recessed channel and then into a foul sewer at the rear of the property. This is totally against the Residential Design Guide which requires surface run off to be handled within the curtilage. It is also the option of last resort under building regulations. Yet the Case Officer makes no mention of these facts.</p>
Condition 01	The submitted plans do not reflect the actual build, they deviate massively from them
Condition 02	Unauthorised fencing. If the orange screen is considered to be against neighbour and visual amenity, why isn't a similarly sized fence in the same location equally against neighbour and visual amenity. We note that in Sept. 2021 Council wrote to the Applicant requiring removal o the orange screen by 19 November 2021. The Applicant has simply ignored this.
Note to applicant	Consent will never be given and encroachment occurred in the absence of a certificate B. It is therefore against conditions and enforceable, irrespective of panel's decision.

Summary

The officer report is full of factual errors and over simplifications and is highly selective in the submissions it mentions, let alone those actually commented on.

We reject the officer's case of no material harm and his attempts to make problems caused by failures by council into someone else's problems and respectfully request that this application be refused and immediate enforcement issued against all encroachment requiring immediate removal and restorative measures. We further request that, in the absence of independent structural verification, enforcement for complete demolition of the retaining wall, including footings and rebuild according to the actual specification in the original plans under close scrutiny from building control.