

Reference: 14/00516/VAC
Date submitted: 24.06.14
Applicant: Mr Ian Hardwick – Ian Hardwick Limited
Location: Land adjacent 23 Middle Lane, Nether Broughton, LE14 3HD
Proposal: Variation of Condition 3 relating to Planning Approval 13/00678/REM to increase part of the wall from 1.5m to 2m with the lower part at 1.4m as indicated on Drawing Number 6562P - 21H.



Proposal :-

This application seeks planning permission for a variation to condition 3 of the approved application for the erection of a single storey detached dwelling on land adjacent to 23 Middle Lane. The condition restricts the height of the front boundary wall that bounds Middle Lane and King Street to the height of 1.5 metres. The wall has been constructed not in compliance with this condition and seeks retrospective permission to regularise the works and amend the wording of the condition.

The dwelling is located within the Village Envelope of Nether Broughton on former garden area to No. 23. There are residential properties surrounding the site as it sits on the corner of Middle Lane and King Street. There is no designated Conservation Area for the village of Nether Broughton.

It is considered that the main issues relating to the proposal are:-

- **Impact upon the Character of the Area**
- **Impact upon Highway Safety**

The application is to be considered by Committee due to history of the site.

Relevant History:-

14/00219/NONMAT – amendments to the fenestration were approved on the 2nd June 2014

13/00678/FUL – Planning permission granted for the erection of a single storey dwelling, 19th December 2013

Planning Policies:-

Melton Local Plan (saved policies):

Policies OS1 and BE1 allow for development within Village Envelopes providing that:-

- the form, character and appearance of the settlement is not adversely affected;
- the form, size, scale, mass, materials and architectural detailing of the development is in keeping with its locality;
- the development would not cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing dwellings in the vicinity; and,
- satisfactory access and parking provision can be made available.

The National Planning Policy Framework introduces a ‘presumption in favour of sustainable development’ meaning:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that whilst the NPPF does not automatically render older policies obsolete, where they are in conflict the NPPF should prevail. It also offers advice on the weight to be given to ‘emerging’ policy (i.e the LDF) depending on its stage of preparation, extent of unresolved (disputed) issues and compatibility with the NPPF.

The NPPF introduces three dimensions to the term Sustainable Development: Economic, Social and Environmental: It also establishes 12 core planning principles against which proposals should be judged. Relevant to this application are those to:

- deliver development in sustainable patterns and
- re-using brownfield land.
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

On Specific issues it advises:

Delivering a Wide choice of High Quality Homes

- Set out own approach to housing densities to reflect local circumstances
- Housing applications should be considered in the context of the presumption in favour of sustainable development.

- deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand

Require Good Design

- Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. (NPPF para. 12)

Consultations:-

Consultation Reply	Assessment of Head of Regulatory Services
<p>Highways Authority: No objection.</p> <p>Concerns have been expressed about the effect that raising the height of the wall has had on visibility for pedestrians crossing the road at the crossing point immediately adjacent to the wall. The wall is setback approximately 0.9 metres from the edge of kerb which whilst not ideal, is sufficient for a pedestrian to stand at the edge of the carriageway and have adequate visibility up and down the road to cross safely. Persons approaching with a pushchair, pram, wheelchair or similar would have a little more difficulty, although at the angle of approach, coming round from King Street, they should be able to wait and see before crossing.</p> <p>Whilst the previous height of the wall would allow most adults to see over the top of it to view oncoming traffic, the proposed height of the wall would not. However whilst this view may have been available previously, this visibility splay was across land outside the control of the Highway Authority and the Local Planning Authority. It would therefore be difficult to justify a highway reason for refusal of this application on the basis that it has resulted in a loss of available visibility as the owners of the land could, without planning approval, have planted a tree or hedge that would have removed this visibility splay anyway. Indeed looking at Google street-view images, there does appear to have been vegetation behind the wall which if left unmanaged could have restricted visibility over the wall.</p> <p>Therefore whilst not desirable, the Highway Authority do not feel that it could demonstrate severe harm being caused as a result of the proposal and as such are unable to recommend refusal of the application and reluctantly have no</p>	<p>The wall has been erected around the front boundary of the newly constructed dwelling. Following the grant of approval on planning reference 13/00678/REM a condition was imposed requiring the wall to be at a height of 1.5 metres. This condition followed representation from the residents who were concerned that overlooking could be created to and from users of the village green that abuts the site and did not want a lower boundary treatment. There was a former brick wall which was demolished and in order to preserve the amenity of users of the green and future residents it was considered appropriate that the wall should be erected at a height to prevent overlooking.</p> <p>The wall that is in situ cannot comply with the condition and the applicants have applied to have the wording varied and to retrospectively gain planning approval.</p> <p>Residents have expressed concerns over the height and consider that pedestrian safety has now been compromised because of the increase in height.</p> <p>This view is not shared by the Highways Authority who have not objected to the proposal.</p>

objections to the proposal.	
Parish Council - No objection.	Noted.

Representations:

A site notice was posted and neighbouring properties consulted. As a result 5 letters of representation from 5 separate households objecting and offering comments to the proposal has been received to date. Amended plans have been received and no further comment has been received at the time of writing the report.

Representation	Assessment of Head of Regulatory Services
<p>Highway Safety</p> <p>The wall is too close to the highway and too high you almost have to go onto the road to see around it.</p> <p>The wall obstructs the view of traffic at the junction and is out of keeping with the street scene</p> <p>I thought that there was a restriction for walls adjacent the highway?</p>	<p>The Highways Authority whilst commenting that the height of the wall would make it difficult to view over the top there is sufficient space for pedestrians to see along Middle Lane, which is not a highly trafficked road.</p> <p>Historically there has always been a high wall around the front of the site as it enclosed the rear garden to No. 23 Middle Lane. (photographic evidence).</p> <p>You may construct a wall adjacent the boundary using permitted development rights up to the height of 1 metre. Anything greater requires planning approval.</p>
<p>Impact upon the Character of the area</p> <p>The wall is very dominant on Middle Lane and out of keeping with the village environment.</p> <p>It also does not enhance King Street in any way and looks very oppressive, mainly because the brickwork is the same as the property it encompasses.</p>	<p>The wall has been constructed using the same materials as the dwelling; a red multi brick. Along the Middle Lane frontage the wall has a curved design at the entrance to the site and has been built to the height of 2 metres (as measured on site) it turns the corner with King Street at a right angle, continues at the height of 2 metres then reduces gradually to the height of 1.4 metres. The wall is topped with a decorative brick arrangement.</p> <p>Whilst the height of the wall is higher than the wall that used to enclose the site it is viewed with the dwelling closely behind it. It is not considered that the wall does create an oppressive environment and because of the high craftsmanship the wall is considered to be an improvement on the previous old red brick wall.</p> <p>There are other high brick walls in the vicinity; albeit they are not of the same height as the application site but high brick walls are a feature within the village. It is not considered that the wall does adversely affect the character of the village and complies with the local plan policies OS1 and BE1 which seek to ensure development is in keeping with the character of the area.</p>

<p>Other Matters</p> <p>Object that this application has again been submitted retrospectively, the work has already been carried</p> <p>It's not built in accordance with the permission.</p> <p>Object that the actual measurement of the raised part of the wall is 550 cm higher than the conditioned height of 1.5 meters. If the wall is to be measured from the highest ground level and it is 1.8 metres then the rest of the wall will be lower than 1.5 meters, therefore not conforming with Condition of the Planning Permission.</p> <p>There does not seem to be a valid reason to alter the original plans</p>	<p>Retrospective applications are a feature of the planning system. This application seeks to regularise the works carried out.</p> <p>Following the site visit and measurement having been taken an amended plan has been submitted showing the actual height of 2 metres and 1.4 metres at the lower part when measured from the finished floor levels now the development has been completed. The planning process allows for conditions to be varied or removed and an assessment is required as to whether the change is appropriate and accords with the development plan policies as if it were a planning application.</p> <p>The proposal is considered to be acceptable and comply with the development plan policies. The wall has been sensitively done and relates well with the residential use of the site.</p>
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Considerations not raised through Representations.

Representation	Assessment of Head of Regulatory Services
<p>Application of the Development Plan Policies:-</p> <p>The site sits within the village envelope where residential development is supported. Policies OS1 and BE1 seek to ensure that development respects the character of the area and that there would be no loss of residential amenities and satisfactory access and parking provisions can be complied with.</p>	<p>The wall is associated with a residential use and seeks to enclose the private amenity areas for the future residents. Whilst it is highly visible upon the streetscene it is not considered to have a detrimental impact upon the character of the area. This is due to the design, materials and craftsmanship of the development.</p> <p>The proposal is considered to comply with the local plan polices OS1 and BE1.</p>
<p>Compliance (or otherwise) with Planning Policy</p>	<p>As stated above, the development is considered to accord with the applicable Local Plan polices. In this instance, the policies are not considered to conflict with the NPPF and as such there is no requirement to balance the regimes against one another.</p>

Conclusion

The application retrospectively seeks approval for the increase in height to the boundary wall which was conditioned to be at a specific height in order to prevent overlooking to and from the village green. The application site lies within the village envelope and thus benefits from a presumption in favour of development under policies OS1 and BE1. The proposed development has been designed to have a limited impact on adjoining properties, and is considered to reflect the character and appearance of the surrounding area; and complies with highway requirements. Accordingly, the proposal is recommended for approval subject to conditions.

RECOMMENDATION:- Approve, subject to the following conditions:

1. The boundary wall as approved on drawing number 6562P-21H rev H submitted on the 30th July 2014 shall remain in perpetuity.
2. The car parking facilities shown within the curtilage of the dwelling shall be provided, hard surfaced and made available for use before the dwelling is occupied and shall thereafter be permanently so maintained
3. Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 1995 as amended (or any Order revoking and re-enacting that Order) in respect of the replacement dwelling hereby permitted no development as specified in Classes A, B, C with the exception of C.1. (c) (ii), D or F shall be carried out unless planning permission has first been granted by the Local Planning Authority

Officer to contact:

Mrs Denise Knipe

Date: 1st August 2014