

**Reference:** 14/00848/VAC  
**Date submitted:** 16.10.14  
**Applicant:** Mr Ian Hardwick – Ian Hardwick Limited  
**Location:** Land adjacent 23 Middle Lane, Nether Broughton, LE14 3HD  
**Proposal:** Variation of Condition 3- To increase part of the wall from 1.5 metres to 1.8metres as indicated on drawing numbered 6562P-2113/00678/REM - application 10/00624/EXT



**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 not been constructed 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:-**

**14/00518/VAC - 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. Refused on the 14<sup>th</sup> August 2014 – Appeal pending.**

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

**13/00678/FUL – Planning permission granted for the erection of a single storey dwelling. 19<sup>th</sup> 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:-**

<b>Consultation Reply</b>	<b>Assessment of Head of Regulatory Services</b>
<b>Highways Authority:</b> No objection.	<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 that was at the height of 1.8 metres along Middle Street and 1.4 along King Street 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 is currently erected at the height of 2 metres and cannot comply with the condition. The applicants applied retrospectively to retain the wall at the 2 metres height and this was refused and is now the subject of an appeal. The applicants have reapplied to have the wording varied and are prepared to reduce the height along Middle Lane to 1.8 which was the height of the original wall. The dwelling has been sold and whilst it would be the new owner's preference to retain the wall at its current height they would still support a reduction to the 1.8 metres which would still retain privacy to the front amenity area directly off the full glazed doors serving the kitchen dinner.</p> <p>Residents have expressed concerns over the height and consider that pedestrian safety has now been</p>

	<p>compromised because of the increase in height. The wall is set back approximately 0.9 metres from the edge of the kerb and is sufficient for a pedestrian to stand at the edge of the carriageway and have adequate visibility up and down the road cross safely.</p> <p><b>The Highways Authority have not objected to the proposal.</b></p>
<p><b>Parish Council</b> - No objection to the reduction in height to 1.8 metres</p>	<p>Noted.</p>

**Representations:**

A site notice was posted and neighbouring properties consulted. As a result 6 letters of representation from 6 separate households objecting and offering comments to the proposal has been received to date and are summarised below:-

<b>Representation</b>	<b>Assessment of Head of Regulatory Services</b>
<p><b>Highway Safety</b></p> <p>The increase in height of the wall restricts the visibility on King Street and Middle Lane</p> <p>The highway survey needs to rethink his comments the wall is a danger to pedestrians and animals.</p>	<p>The Highways Authority have no objection to the height of the wall. It is considered that 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.</p>
<p><b>Impact upon the Character of the area</b></p> <p>The wall is very dominant on Middle Lane and out of keeping with the village environment.</p> <p>The wall is a harsh urban feature in a rural village</p> <p>This wall at the current height is a harsh urban feature in a prominent location in the street scene. (that's what the Planning Committee said in their reasons for refusal).</p>	<p>The wall in its present form is at the height of 2 metres along Middle Lane and as it turns the corner to King Street reduces down to 1.4 metres. The original wall around the site was at the same height along King Street but was at a height of 1.8 metres along Middle Lane. 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.</p> <p>The committee recently refused the application to retain the wall at its current height of 2 metres along Middle Lane (which is currently being determined by the Planning Inspectorate and the decision is awaited). The committee in determining the original application 13/00678/REM took on board comments from the Ward Councillor that the wall should be at the same height of the original wall and not the lower height proposed within that application. A condition was imposed to restrict the wall to be no lower than 1.5 metres. This latest application seeks to bring the wall back within the height parameters of the original wall and it would be unreasonable to refuse this latest application given that there was a high wall in this location. Residents sought to retain the wall on previous planning applications and objected to its removal</p>

	<p>however the wall had no protection not being sited within a Conservation Area.</p> <p>The dwelling has now been sold subject to contract and it is the wishes of the new owners to have the wall at the height of 1.8 metres to protect their residential amenities being sited on a corner location.</p> <p>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><b>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.</b></p>
<p><b>Other Matters</b></p> <p>Should approval be granted who would enforce the reduction?</p> <p>This application is identical to 14/00516/VAC which was refused by the Planning Committee on 15th August 2014 and notification of an appeal received on 29th September</p> <p>Still feel the original planning should be adhered to - feel these various alterations to the wall are verging on harassment.</p> <p>The height of the wall on the Plans submitted with this new application has been amended to 1.8 meters but the height of the wall has not been reduced.</p>	<p>Should the application to vary the condition be approved the Council would be able to take enforcement action if there were to be a breach in the condition. No action has currently been taken as there are pending planning applications. A condition can be added to the approval to stipulate the exact timing of when the works have to be carried out by.</p> <p>The application is not identical as it is seeking to establish the wall at a height of 1.8 metres and not the 2 metres it previously sought retention for. This application is subject to appeal and whilst the Inspector has conducted his site visit the decision has not yet been issued.</p> <p>The planning process has provisions for varying conditions and for seeking amendments to plans. It is a legitimate process which still allows for public consultation.</p> <p>Noted. The works have not yet been carried out as they are awaiting the outcome of this application and the appeal.</p>

**Considerations not raised through Representations.**

<b>Representation</b>	<b>Assessment of Head of Regulatory Services</b>
<b>Impact Upon Residential Amenity</b>	<p>The proposed reduction in height to 1.8 metres along Middle Lane would replicate the height of the original wall in this location. It is not considered that the wall would reduce the residential amenities of any of the neighbouring properties to a degree that it would cause adverse impact. To allow the proposal 1.8 metre height along Middle Lane (1.4 metres along King Street) will provide some benefit</p>

	<p>to the future occupiers as it will allow privacy to the front amenity area and prevent direct overlooking into the kitchen/diner.</p> <p><b>It is not considered that adverse impacts upon residential amenity will arise from granting consent for the proposal.</b></p>
<p><b>Application of the Development Plan Policies:-</b></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><b>The proposal is considered to comply with the local plan policies OS1 and BE1.</b></p>
<p><b>Compliance (or otherwise) with Planning Policy</b></p>	<p>As stated above, the development is considered to accord with the applicable Local Plan policies. 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 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-21 submitted on the 16<sup>th</sup> October 2014 shall be reduced in height within 1 month of the decision date and shall remain of that height 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: 4<sup>th</sup> December 2014**