

43/12/0128

MR P LODGE

**RETENTION AND ALTERATION OF FENCE AND GATES TO EASTERN BOUNDARY AND RETENTION OF FENCING TO NORTHERN BOUNDARY AT THE ORCHARD, TONEDALE, WELLINGTON (AS AMENDED)**

Grid Reference: 312776.121521

Full Planning Permission

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**RECOMMENDATION AND REASON(S)**

Recommended Decision: Conditional Approval

The proposal is considered not to have a detrimental impact upon character and appearance of the area nor highway safety and is therefore considered acceptable and, accordingly, does not conflict with Policy DM1 (General Requirements) of the Taunton Deane Core Strategy.

**RECOMMENDED CONDITION(S) (if applicable)**

1. The approved works to the fence and gates hereby permitted shall be fully completed, including the application of the approved wood stain, within three months of the date of this permission.

Reason: To ensure that the unauthorised fencing and gates at the property, which are subject of ongoing enforcement action, are appropriately amended to reflect the approved scheme to the benefit of the surround area.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A4) Block Plan  
(A4) Location Plan  
(A4) Annex 1

Reason: For the avoidance of doubt and in the interests of proper planning.

**Notes to Applicant**

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and entered into pre-application discussions to enable the grant of planning permission.

**PROPOSAL**

The application seeks planning permission for the retention of fencing, with partial alteration of that fencing, at The Orchard, Tonedale, Wellington.

In detail, the application proposes the retention of 1.8 metre high timber fencing to the North East and Southern boundary of the property. It is also proposed to reduce the height of the fencing and gates to the Eastern boundary of the site to 1.2 metres and erect of 600m high trellising above this section of the timber board fence and gates. The fencing will be finished in Cuprinol cedar stain.

## **SITE DESCRIPTION AND HISTORY**

The Orchard is a detached bungalow within the Tonedale area of Wellington, located between Burchills Hill to the west and Millstream Gardens to the east. The property benefits from gardens to three sides and two points of vehicular access - one off Burchills Hill and one off Millstream Gardens. The dwelling is served by ancillary buildings that are sited along the north east boundary of the property and from off road parking to the eastern corner of the site. The application site is surrounded in its entirety by private housing.

Prior to being replaced, there was timber picket fencing and gates erected along the eastern boundary of the site; this fencing was erected without the grant of planning permission and therefore was unauthorised development. This matter was reported to the Council's Planning Committee who determined not to take any enforcement action against the owner of the property at that time. Prior to the erection of the fencing and gate subject of this application, the vehicular access and driveway to the western boundary of the site was originally open fronted with only reflective traffic bollard's and stones sited along the highway edge with space retained to allow access and egress to and from the site.

The unauthorised picket fencing was replaced by closed boarded timber fencing to a height of 1.8 metres, and this new fencing was also erected along a section of the North East and Southern site boundaries with works completed on 21 October 2011. Following a complaint to the Council, a planning application was submitted to regularise this fencing, however planning permission was refused, LPA reference 43/11/0119, for the fencing onto Millstream Gardens for following reason:

*The fence and gates at the eastern site boundary and access onto Millstream Gardens, by virtue of its scale, design, materials and positioning, is considered to have a stark and imposing appearance within the area thereby represents an incongruous feature within the street scene, detracting from the character and visual amenity of the area. The proposed fence and gates in this prominent position relate poorly to the residential area of Millstream Gardens and fail to respect the open plan nature of the sites surroundings. The proposed development is therefore considered to conflict with Policies S1 (D) and S2 (A) of the Taunton Deane Local Plan.*

The Councils decision to refuse planning permission was upheld at appeal, where (with regard to fencing onto Millstream Gardens) the Inspector found that the fencing was incongruous and intrusive within the street scene.

## **CONSULTATION AND REPRESENTATION RESPONSES**

## **Consultees**

*SCC - TRANSPORT DEVELOPMENT GROUP* - No comments received.

*WELLINGTON TOWN COUNCIL* - Recommend that permission is refused as the proposal would be harmful to the character and appearance of the area.

*WELLINGTON COMMUNITY OFFICE* - N/A

*PLANNING ENFORCEMENT* - No comment

*SCC - RIGHTS OF WAY* - There is no public right of way running through the site, however an application to add a footpath has been received by Somerset County Council. Plan of proposed footpath provided.

## **Representations**

4 letters from neighbouring residents with no objection to the proposals, raising the following planning related matters:

- Having lived next door for 18 years there has always been a 6 ft high fence around the property;
- The fence is not out of character with the surrounding architectural layout of the estate and the alterations will not detract from security and will be aesthetically satisfactory;
- We have no concerns with the present fence and gates and the proposed alterations are equally acceptable and in keeping with the original fences at The Orchard which were erected when Mill Stream Gardens estate was completed.

7 letters of objection from neighbouring residents, raising the following planning related matters:

- Mill Stream Gardens is an open plan estate with gardens to the front;
- The fencing is not in keeping and looks intrusive;
- How can he apply when the fencing has been refused by TDBC, Wellington TC and the Planning Inspector?
- The fencing is an eyesore and aesthetically very unpleasant to look at;
- The alterations with trellis will not make a difference;
- The amended fencing is still not in keeping with the open plan estate;
- Applicant has plenty of privacy within his boundary without erecting such an eyesore;
- Prior to the erection of this fencing the lane was being used by pedestrians for over twenty years;
- The footpath application is awaiting decision by the Highway and Footpath Committee;
- The lane was purchased in 2008 and the picket fencing erected without planning;
- Visitors and trade to the property regularly block the access;
- The fence does obstruct visibility of vehicles emerging from their parking spaces and driveways;
- The fencing and gates make driving tricky and dangerous especially when cars are parked along the road side or in driveways;

- Previous owners had a bollard removed and lockable post installed to allow oil to be delivered and for emergency access only;
- The fence has left adjoining owners with no visibility splay; children play in the area and this is an accident waiting to happen;
- The fencing should be set back and not higher than one metre;
- The fence should be returned to its original state - close boarded with trellis above and not blocking the footpath;
- The application contains a number of errors including site address, the fence has blocked a footpath and plans are shown without measurements.

## **PLANNING POLICIES**

DM1 - TD CORE STRATEGY - GENERAL REQUIREMENTS,

## **DETERMINING ISSUES AND CONSIDERATIONS**

The pertinent issue to consider is the impact of the fencing upon the character and appearance of the area. There have been a number of objections from the public and the Town Council in relation to the fencing, virtue of its detrimental impact upon the character and appearance of the area.

The existing fencing has been found previously to be unacceptable in terms of its impact upon the character and appearance of the street scene when viewed within Mill Stream gardens. Such a view was supported at appeal by an Inspector who found that upon approaching the site along Mill Stream Gardens the fencing was incongruous and intrusive. The Inspector noted that a stain finish would reduce the impact of the fence but not to an acceptable degree.

In discussions with the applicant, it has been agreed that the fencing to the South that fronts onto a private parking space does not require planning permission as it is not adjacent to a highway. The fencing to the Northeast and East boundaries is adjacent to the highway and does require planning permission.

The fencing to the Northeast boundary will retained as a closed boarded structure approximately 1.8 metres in height. The fencing along this stretch of the highway cannot be seen upon approaching the site; it is set back from the edge of the road by approximately 2.5 metres with an intervening grass verge. Being set back from the highway is somewhat more in keeping with the open plan aspect of the area. This arrangement is considered to result in a less dominating appearance to this section of the fencing, and for this reason the fencing to the Northeast boundary of the site is not considered to result in significantly harm the character or appearance of the area.

The fencing and gates to the Eastern site boundary previously caused most concern, virtue of the perceived incongruous and intrusive appearance within the street scene. Mill Stream Gardens is generally an open plan. The fencing and gates, as amended by these latest proposals, will continue to be sited immediately abutting the highway and footpath. Upon approaching the site along Mill Stream Gardens from the East, the fence and gates will remain a prominent feature within the street scene, however the enclosed nature of the fence and gates will be reduced by the proposals, which will see the upper 600mm amended to form timber trellising. The closed board

element will have a maximum height of 1.2 metres. Being able to see through the upper 600mm of the fence and gates is considered to reduce the incongruous impact of the structure within the street scene.

Previously unseen evidence has been seen of historic fencing at the Eastern boundary of The Orchard has now been presented to the Council. This shows a timber fence with trellis having been sited along the eastern boundary; its design is very similar to that now proposed and does carry some weight in favour of the proposals. Notwithstanding this matter, the inter visibility between Mill Stream Gardens and The Orchard that will be provided by the proposed trellis, when coupled with the application of a wood stain, is considered to reduce the impact of the structure upon the character and appearance of the area to an acceptable degree.

### Other matters

A number of neighbouring residents have raised concern and objected to the proposed gates and fencing virtue of the impact upon a 'historic footpath' that was once available to members of the public along the driveway of The Orchard; this provided a cut through between the Tonedale Mill area (now Millstream gardens) and Burchills Hill. This path is not a formally defined public right of way although I note that the matter is currently in the hands of Somerset County Council Rights of Way (ROW) team. Notwithstanding this matter, the proposed development does not currently affect a right of way and whilst I acknowledge the concern of neighbouring residents and members of the public with regard to historic use, should a path be defined along the driveway then it will be a matter for the ROW team and the private land owner to ensure that appropriate public access is provided.

The fencing was previously considered not to harm highway safety within Mill Stream Gardens and this conclusion was supported by the Planning Inspector at appeal. There remain objections to the proposal on the grounds of highway safety. However, the overall height of the fencing and its positioning along the site boundaries will not alter and therefore highway safety is not considered to be undermined by these latest proposals.

### Conclusions

The proposed fencing and gates, with the amended design and finish are considered to have a satisfactory impact upon the character and appearance of the area. The proposals will not unduly harm highway safety nor affect an as yet authorised public right of way. It is therefore recommended that planning permission be granted subject to conditions.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.**

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