

# Taunton Deane Borough Council

Planning Committee – 18 April 2012

E/0298/43/11

## FENCES ERECTED AT THE ORCHARD, LINDEN HILL, TONEDALE, WELLINGTON

### OCCUPIER:

**OWNER:** MR LODGE  
THE ORCHARD, LINDEN HILL, TONEDALE  
WELLINGTON  
TA21 0AD

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### PURPOSE OF REPORT

To consider whether it is expedient to serve an Enforcement Notice to secure the reduction of the fencing and gates to 1m in height.

### RECOMMENDATION

The Solicitor to the Council be authorised to serve an Enforcement Notice and take prosecution action, subject to sufficient evidence being obtained that the notice has not been complied with.

The Enforcement Notice shall require :

- The reduction of the fence and gates to a height of 1m.

Time for compliance - 2 months from the date on which the notice takes effect.

### SITE DESCRIPTION

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 benefits from the 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.

### BACKGROUND

The present owner purchased the property some 18 months ago. The previous owner erected 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 owner was contacted and informed that the newly erected fencing is significantly different to the previous fencing and as such requires Planning Permission. An application was submitted and subsequently refused under delegated authority on 27 January 2012

## **DESCRIPTION OF BREACH OF DEVELOPMENT CONTROL**

The Orchard has two road frontages, one onto Linden Hill and the other onto Millstream Gardens. The former has fencing approx 1.2m high and is of timber picket style fencing and a 3.6m wide timber field gate. As this is adjacent to the highway the maximum height permitted without planning permission is 1m. If the fence was to be reduced to 1.0m high no permission would be required.

The fence adjacent to Millstream Gardens is 1.8m high (approx) close boarded fencing and gates and are sited on the eastern boundary of The Orchard and the driveway/access serving the property that leads onto the Millstream Gardens residential area. The total permitted height is as above i.e.1m as the fencing and gates are positioned on the back edge of the highway.

## **RELEVANT PLANNING HISTORY**

Enforcement case number E258/43/08 for the erection of gates and fencing over 1m in height. Planning committee resolved not to take any further action

## **RELEVANT PLANNING POLICES**

### National Policy, Guidance or Legislation

National Planning Policy Framework

### Taunton Deane Local Plan 2004

S2 – Design

## **DETERMINING ISSUES AND CONSIDERATIONS**

The pertinent issues that require consideration in determining the proposed development are considered to be the visual impact of the unauthorised fencing and gates upon visual amenity within the area and the impact of the development upon highway safety.

Visual amenity:

The estate of Millstream Gardens directly adjoins the application site and shares access over the adopted highway; the closed board fencing and gates to the eastern boundary, are clearly visible within the street scene from public vantage points along the highway. Millstream Gardens, which adjoins the application site, is open plan to the front of the properties and this aspect of the estate has been largely maintained since its development in the 1980's.

The enclosure to the eastern boundary and fronting onto Millstream Gardens is

considered to be at odds with the surrounding residential area onto which it fronts and shares vehicular access. The main form of enclosures within the area are brick walls and small sections of fencing that are generally no more than 500mm in height. Where there are enclosures they are predominantly brick walls within the public realm, such as along footways to the back and sides of dwellings; they are not of close boarded timber fencing and in this regard there are no known examples of such fencing of the scale, design or proximity to the highway such as that proposed, within the Millstream Gardens area.

The proposed 1.8 metre fencing and gates, if allowed, would appear stark and dominating in contrast to the open plan nature of adjacent properties, the common brick wall boundary treatments and low level fencing of surrounding properties, to the detriment of the character and appearance of the street scene. Whilst I acknowledge that previous picket style fencing and gates was erected along this boundary, it is considered that such would have had far less a detrimental impact upon visual amenity of the area than the fencing subject of this application.

It is important to note that a fence/gates up to 1 metre in height could be built in this location under permitted development rights, without the need for planning permission. Whilst this has been taken into account, it is considered that the additional mass of the fencing exceeding the permitted 1 metre, would result in significant harm to the character and appearance of the surrounding area. Therefore the fence and gates, by virtue of its design and materials fails to respect, and detracts, from the character of the area and the street scene, to the detriment of the appearance of the surrounding area.

With regard to the fencing and gate, which front onto the highway at Burchills Hill, to the western boundary of the application site, it is felt that the lower height and open aspect of the picket style design has a far less intrusive appearance within the street scene and visual amenity to that found at the opposite end of the domestic driveway at Millstream Gardens.

#### Highway safety:

The fencing and gates at both the east and west access points to The Orchard have been erected within a close proximity of the highway, which is considered to include pedestrian footway at Millstream Gardens. The Highway Authority have raised concerns over both aspects of the proposals, virtue of the proximity to the roads, lack of acceptable visibility splays and the potential to require vehicles to wait on the highway

At the access with Millstream Gardens, a number of residents and the Town Council have raised concern as to the impact of vehicles emerging from The Orchard without the necessary visibility that would allow drivers to see and also be seen. The gates and fencing that have been erected on the corner of the plot and on a bend in the highway will restrict visibility for access & egress. I acknowledge that the fencing will prevent any clear unobstructed view to the left for vehicles exiting The Orchard, however the public footway ends at the corner of the site and any vehicle leaving the cul;-de-sac is likely to be doing so at this point at slow speed. The recommendation of the Hlghway Officer to set the fencing and gates back from the footway by 2m is a sensible one, however having been erected on site already, it seems to me that such an undertaking is unlikely at this point. Notwithstanding this factor, the reduction in sight lines to the left and right over a short distance is not thought to prejudice highway safety to a point that would warrant the refusal of planning permission.

At the access with Burchills Hill, the fencing and gates have been erected abutting the highway to a height of 1.2 metres (approx). The Highway officer has made recommendations that would be necessary in order to provide for a safe access and egress to/from the driveway in terms of visibility lines and also providing space for a vehicle to wait clear of the highway whilst the gates are opened. Burchills Hill is a moderately trafficked road that provides a useful cut through between Milverton Road and Westford, whilst also leading to allotments gardens, a children play area, large nursing home together with agricultural and private residential properties. The gate and fence that fronts onto Burchills Hill is not designed to a degree that would ensure highway safety is maintained along this point of the road. New development should be well designed in order to minimise any detrimental impact within its surroundings, particularly upon highway safety. It is considered that the timber fencing, gate and gate posts will result in conflict along the highway virtue of there being insufficient visibility splays in both directions that are considered necessary so as to allow vehicles to see and be seen. For these reasons it is recommended that planning permission be refused for the retention of gate and fencing at the access onto Burchills Hill.

The Highway Authority have asked for the LPA to seek an agreement between the landowner and themselves over future maintenance costs given the proximity of the fencing and gates at Millstream gardens to the public footway. Whilst this is understandable, it is considered to be a civil matter between the two parties; it is not therefore a matter to remedy via the use of planning conditions or the planning system more generally.

#### Conclusions:

The proposed development will result in an incongruous development, whose stark and imposing appearance within the street scene and visual amenity will result in significant harm to the local area if it were to be retained. It is also considered that the gate and fencing onto Burchills Hill will result in the provision of an unsafe vehicular access onto the highway network to the detriment of road safety.

**In preparing this report the Enforcement Officer has considered fully the Implications and requirements of the Human Rights Act 1998**

**PLANNING OFFICER: Mr R Williams**  
**PLANNING ENFORCEMENT OFFICER: Mr J A W Hardy**

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