Item: **03**

Reference: **10/00418/FUL**

Applicant: **Mr Paul Sidwell**

Location: **2 Hamilton Close Hinckley Leicestershire LE10 0TS**

Proposal: **ERECTION OF A ONE METRE FENCE**

Target Date: **23 July 2010**

Introduction:-

This is a resubmission of a planning application for the erection of a one metre high fence to be affixed above a one metre high side boundary wall at 2 Hamilton Close, Hinckley.

The one metre high boundary wall on which the fence is to be erected is considered at present to be unauthorised as it is situated upon public amenity land. This land has been enclosed within the applicant's garden without planning permission. As this land is not considered residential, it cannot benefit from permitted development rights. As the erection of the wall is considered ancillary to the enclosure of the land, and the development has been established for less than 10 years; both the wall and the change of use of the land are considered to be unauthorised and are therefore liable to possible enforcement action. This matter has been drawn to the applicants' attention.

The application property comprises a semi-detached house situated on a corner plot at the junction of Hamilton Close and Dunblane Way. The residential estate is of typical 1970's design, originally characterised by open frontages, side gardens and wide verges. Dunblane Way slopes down in a southerly direction.

Along the inside of the unauthorised 1m high wall is a row of conifers, approximately two metres in height. The front elevations of 10-24 Dunblane Way face the unauthorised boundary wall and the garage of 58 Seaforth Drive stands to the rear of the site.

Surrounding properties are of similar design, situated on uniform building lines and standard plot sizes. The majority of front and side boundaries are open. Where properties accommodate a corner plot, their boundaries are enclosed by vegetation, solid walls or close boarded fences.

The application proposes to remove the existing two metre high conifer hedge and affix a 1m high close boarded timber fence above the unauthorised 1m high brick wall. This will span a length of 22.5m and will be staggered to reflect the gradient of the land.

Members will note the previous application was refused on the basis of its impact on visual amenity and the character of the area. This application has not changed but has been re-submitted and called to Committee to allow Members to consider the issues.

History:-

09/00730/FUL	Erection of Timber Fence	Refused	08.02.10
01/00219/FUL	Re-siting of boundary wall	Withdrawn	06.07.01



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Consultations:-

Head of Community Services (drainage) has no objection to the application.

Director of Environment and Transport (Highways) refers to Standing Advice.

Cllr Keith Nichols and Ward Cllr David Cope have requested that this application be brought before the next available Planning Committee meeting, as they are of the view that the application raises issues in respect of the security, privacy and well-being of the occupiers of the house and the impact of the development on the character and appearance of the area that should be considered by Members.

Policy:-

Local Plan Policy

Policy BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Development should ensure adequate highway visibility for road users and adequate

provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

Policy T5 refers to the application of appropriate standards for highway design and parking targets for new developments. Leicestershire County Council's document 'Highways, Transportation and Development' provides further highway design guidance and parking targets.

Appraisal:-

The main considerations for the determination of this application are the principle of the development, design and siting of the fence and its impact on the character of the area, neighbours amenity and highway safety.

Principle

As the application is solely for the erection of the one-metre-high fence above the existing unauthorised wall, there would be difficulties in implementing the scheme if Members resolve to grant planning permission. The wall and the enclosure of the amenity space will remain unauthorised and will be liable to possible enforcement action.

Neighbours amenity

The proposed boundary treatment at a maximum height of two metres will face toward the front elevations of 16-22 Dunblane Drive separated by the roadway and a distance of 14 metres. As a result of the separation distance and minor nature of the development, the scheme is not expected to impact on the amenity of these properties either through being overbearing or through loss of light.

Design and impact on the character of the area

This residential estate was constructed with an open plan design, giving the estate a characteristic open feel, with open front and side gardens and wide verges. This is visible on the opposing residential properties and strips of green verges adjacent to public footpaths, such as at 58 Seaforth Drive. The application property has constructed a one metre high wall, which encloses the grass verge abutting the footpath along Dunblane Way. A two metre high conifer hedge has been grown on the inside of this to enclose the side area further, which has been converted into garden space. Whilst the enclosure of this space is not desirable and not in keeping with the character of the estate, conifers above the solid wall provide a softening to the boundary treatment and add to the visual amenity of the area. It should be noted that hedges do not fall within the scope of control by planning legislation. The replacement of these trees with a solid timber fence culminating in a total height of two metres spanning a distance of 22.5 metres would not only detract from the area's visual amenity but would fail to complement or enhance the open character of the surrounding area. This impact is further reinforced by the prominent location of the site at the junction with Hamilton Close and Dunblane Way, juxtaposed with the adjacent open front and side gardens.

It is worth noting that whilst there are examples of two-metre-high fencing abutting the footway on properties within the surrounding area, they have been constructed without the required consent from the local planning authority and are now exempt from enforcement action. In addition these boundary treatments have a minimal span compared to the proposed scheme. Although these are evident on the estate they

are not numerous enough to consider that the open character of the surrounding area has been fundamentally changed as a result.

Highway safety

58 Seaforth Drive has a detached garage which stands between this property's rear boundary and that of the applicants. This garage is set back from the highway and existing 1 metre high wall by six metres. This wall and adjacent conifers currently restricts pedestrian visibility from this garage. The erection of a solid boundary treatment, reaching a similar height as existing is also likely to restrict pedestrian visibility however the impact is not expected to be significantly worse than existing.

Other issues

The applicant has indicated the proposed scheme has resulted from a need to increase security to the property and reduce maintenance of the existing trees. Safety and security to individuals and property is a consideration of local plan policy BE1. These concerns could however be addressed via other means and this consideration is not considered to outweigh the impact of the scheme on the areas open character and visual amenity.

Conclusion

It is considered that the replacement of existing conifer trees with a one metre high timber fence spanning a distance of 22.5 metres and abutting a footpath would detract from the areas visual amenity. In addition the proposal would fail to complement the open character of the surrounding area and would therefore be contrary to Local Plan Policy BE1 and the application is recommended for refusal.

RECOMMENDATION :- REFUSE, for the following reasons :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Reasons:-

1 In the opinion of the Local Planning Authority, the proposed development by virtue of the introduction of a 2 metre high solid boundary treatment would result in a detrimental impact on the visual amenity of the area and would harm the open character of the surrounding area. The development is therefore, contrary to Local Plan Policy BE1.

Notes to Applicant:-

1 The applicant is advised that the 1 meter high brick wall and the enclosure of the amenity land constitutes unauthorised development. In order to progress the situation, either an application can be made for the change of use of the amenity land to residential land, and the erection of a 1m high brick wall, for which there is a fee of £335, or the wall can be removed and the land reinstated to its original form. Failure to authorise the development will render you liable to enforcement action.

2 List of plans used in the determination of this application:- Drg Nos 1 and 2, OS Sitemap scale 1:1250

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