DELEGATED REPORT

Recommendation Made: 18 May 2009

Reference:- 09/00172/FUL **Parish:- Sheepy Parish Council**

Applicant:- Mr Alan Glover
Windy Ridge
Main Road
Upton
Warwickshire

Location:- Windy Ridge Main Road Upton Nuneaton Leicestershire

Proposal:- ERECTION OF NEW BOUNDARY RETAINING WALL

Introduction:-

This application is the resubmission of a previous refusal (08/01009/FUL) for the erection of a front boundary wall at Windy Ridge, Upton which lies within a Local Landscape Improvement Area.

The application property, Windy Ridge, off Main Road, is a modern bungalow situated centrally in a large plot. A long drive slopes gently down from the property onto Main Road. An established hedgerow runs along the southern side of the front boundary and along the side of the drive up towards the property. A cherry tree and shrubs run along the northern side of the front boundary and extend down the drive.

The proposed wall will be constructed at a height of 2.2 metres but due to the land levels only 1.4 metres of the wall will be visible from the street. The wall is in two segments separated by the driveway entrance. The northern segment spans approximately 9 metres along the front boundary and 3.8 metres along the driveway toward the dwelling. The southern segment spans 4.2 metres from the front boundary along the driveway toward the property. The proposed wall will consist of masonry piers in-filled with timber panels with low vegetation fronting the wall.

Planning History

95/00133/COU- Change of use from agricultural land to garden- approved- 05.04.95

95/00318/FUL- Erection of a stable block- approved- 27.07.95

98/00415/FUL- Extensions and alterations to dwelling- refused- 28.07.98

05/00800/FUL- Creation of a covered area- approved- 13.09.05

08/01009/FUL- Erection of new boundary wall- refused- 06.12.08

09/10034/Preapp- Erection of boundary wall- proposed brick façade too dominant

09/10045/PD- Front Boundary wall – requires planning permission

Consultations:-

The Borough Council Environmental Health Officers have no objection to this application

The County Council Highways Officer has commented the wall still appears to encroach into the highway and that technical approval of the wall design must still be approved by the Highway Authority. The Officer also stated proposed landscaping within the highway is not desirable. The applicant could apply for a license to cultivate this land under the Highways Act 1980 but it would be subject to the planting being maintained at a height not exceeding 900mm of the adjacent carriageway level. The license may not be granted if objections are received. Previous comments on the prior refusal relating

to the drainage proposals being inadequate must also be addressed and approved by the Highway Authority. Overall the Highway Authority does not object to the application with conditions and notes to applicant.

Two objections have been received from neighbouring properties with the following comments;
- The scheme is out of character with the village and more hideous than the last scheme
- The wall should be moved back to retain the existing hedge or a new hedge should be planted post construction providing a perch for local birds.
- This is not a retaining wall but another concrete and brick construction in a rural area.

Development Plan Policies:-

Hinckley and Bosworth Local Plan
- BE1 (Design and siting of development)
- NE5 (Development in the Countryside)
- NE10 (Local Landscape Improvement Areas)
- T5 (Highway design and vehicle parking standards)

Appraisal:-

The central concerns to address in this application are the design and impact of the development on the character of the area and highway safety.

The application property and properties immediately to the north are characterised by long open front gardens. The boundary wall will act as a retaining wall for the front garden but will stand toward the end of the village adjacent to an enclosed commercial enterprise which will limit the walls impact on the open rural character.

The proposed boundary wall standing at a height of 1.4 metres (as viewed from the road) is an acceptable height for a front boundary wall for a residential dwelling, especially when balanced with current permitted development legislation which allows a wall fronting a highway to be erected at height of 1 metre.

The applicant has avoided creating a long plain brick façade by inserting timber panels between the brick piers, which is a material more conducive to this rural setting and an improvement on the previous scheme but would have a tidy, suburban aesthetic which is not ideal for this location.

The existing vegetation which lies at the front of the site, but within the highway boundary, is likely to be disturbed during construction. The agent was requested to move the wall behind the highway boundary by an additional 1 metre to enable the existing vegetation to be retained but the applicant found this an unacceptable proposal. Before any works can be undertaken within the limits of the highway, permission must first be given by County Council Highways. If permission is given by the Highway Authority to remove some of the existing vegetation, permission must also be sought for its replacement as landscaping is an essential element to improving the appearance of this boundary wall through partial screening. The submitted plans illustrate heather as the replacement, which is generally low lying and would not provide the necessary screening. In addition heather would not provide a suitable environment for nesting birds which may be displaced as a result of the development. In order to mitigate some of the proposed walls impact on the rural locale, notwithstanding submitted details, a condition will be placed on the application to require a landscaping scheme be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. Any submitted landscaping scheme must be submitted to the Local Planning Authority and accompanied by a license to cultivate from the Highway Authority.

Overall the proposed boundary wall is not an ideal or common feature in this rural location however the impact on the areas character must be balanced with the sites peripheral village location, the amended design and landscaping proposal combined with a boundary wall which only exceeds permitted development by 400 mm. In light of these elements the proposed scheme could not be defended at appeal and could not justifiably be refused.
With related highway conditions, a landscaping scheme and the submission of materials for approval, the application is recommended for approval.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan and would not harm the character or appearance of the area, neighbours amenity or highway safety.

SUMMARY OF DECISION - The proposal is in conformity with Policies BE1, NE5, NE10 and T5 of the Hinckley and Bosworth Local Plan. Planning permission is granted subject to conditions.

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed boundary wall shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

3 Notwithstanding submitted details, no development shall take place until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

(i) proposed finished levels or contours
(ii) planting plans
(iii) written specifications
(ix) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
(x) implementation programme.

Any submitted landscaping scheme should include only native tree, hedge and shrub species.

4 The approved soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

5 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the public highway and thereafter shall be so maintained. Details of which shall be submitted for approval prior to development commencing.

Reasons :-

1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

3 & 4 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE10 of the adopted Hinckley & Bosworth Local Plan.

5 To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users.

Notes to Applicant:-

1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.

3. As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.

4. Setting out of the highway boundary shall be carried out with a representative of the Highway Authority prior to works commencing.

5 The proposed development appears to encroach onto highway land and in order to accurately determine the highway boundary across the sites frontage and to apply for a license to cultivate within the highway to provide planting within the verge, the applicant should contact Laraine Hawkins (0116 3057189) at Leicestershire County Council. It should be noted that a license may not be issued if objections to the license are received.

6 The wall hereby approved, must be designed and constructed in accordance with the current relevant Highway design standards, codes of practice and technical memoranda. The design will be subject to the technical-approval procedure set out in the Department of Transport Standard BD2/02 "Technical Approval of Highway Structures on Motorways and Trunk Roads".

7 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager- (telephone 0116 3052202)

8 List of plans used in the determination of this application:-
Drawing number- WR/001, 02, 03 and 04

Contact Officer:- David Kiernan Ext 5898