

9 DCCW2005/1602/F - NEW BOUNDARY FENCE AT 99 DORCHESTER WAY, BELMONT, HEREFORD, HR2 7ZW**For: Mr. V.R. Barrell, 99 Dorchester Way, Belmont, Hereford, HR2 7ZW****Date Received: 17th May, 2005 Ward: Belmont Grid Ref: 48544, 38565****Expiry Date: 12th July, 2005**

Local Members: Councillors P.J. Edwards, J.W. Newman and Ms. G.A. Powell

1. Site Description and Proposal

- 1.1 The application site is a modern detached house positioned side on to the southern arm of the highway loop in Dorchester Way located to the north west of Belmont. Adjoining to the west is No. 101, another detached house, but fronting Dorchester Way so that its driveway access runs alongside the rear boundary of No. 99.
- 1.2 The rear garden of No. 99 is enclosed by a 1.80 metre high close boarded fence projecting from the side of the house and angled back from Dorchester Way to the boundary with No. 101. This leaves a wedge shaped pocket of open amenity land forming an area of approximately 47 sq. metres between the fence/side wall of No. 99, the back edge of the footpath and the driveway boundary with No. 101. Being within the residential curtilage of No. 99 and indicated on the approved housing layout design as a small landscaped amenity area, it is not formally designated as public open space.
- 1.3 It is proposed to reposition the 1.80 metre high fence in order to enclose most of the open area. The new alignment would project from a point close to the nearside corner of the house then follow, 350 mm away, the back edge of the footway alongside Dorchester Way to a point where it would be splayed back to allow for visibility at the driveway access serving No. 101. The existing timber fence panels will be used wherever possible and new panels would match. Panels and posts will be stained dark brown.
- 1.4 Fence posts, following the proposed realignment are already in position.
- 1.5 In support of the proposal the applicant states "at present the strip of grass is used as a doggy toilet and as a football/tennis pitch/court used by local jobs. Posts have been erected by previous owners where new fence is required."

2. Policies**2.1 South Herefordshire District Local Plan:**

Policy GD1 - General Development Criteria
Policy C30 - Open Land in Settlements

2.2 Herefordshire Unitary Development Plan (Revised Deposit Draft):

Policy DR1 - Design

Policy HBA9 - Protection of Open Areas and Green Spaces

3. Planning History

- 3.1 SH980323PO Residential development - Land north west of Belmont, Hereford - outline permission granted 03/11/99.
- 3.2 CW2000/3251/RM Erection of 60 no. detached dwelling houses, estate roads and open space - reserved matters approved 20/12/01.
- 3.3 CW2001/1981/RM Proposed substitution of house types on plots 1-60, amending house type designs on 60 plots - reserved matters approved 26/11/01.

4. Consultation Summary

Statutory Consultations

- 4.1 None required.

Internal Council Advice

- 4.2 The Traffic Manager recommends that any permission should include a condition requiring a 2.00 metre x 2.00 metre splay from the back of the footway adjacent to driveway for No. 101 Dorchester Way, for visibility purposes.

5. Representations

- 5.1 Belmont Rural Parish Council wishes to record a strong opposition to this application on the following grounds:

- The proposals will restrict visibility for nearby residents when existing form their property onto the road, creating a safety hazard;
- The proposed high fencing will detract from the visual amenity of the area in general; and
- The proposal allows the current occupants to increase the size of their garden by taking into the garden a grassed area currently designated as public open space, to the detriment of other local residents. This will create an unfortunate precedent within this Parish.

It is the Parish Council's belief that the fence posts erected by the previous owners of this property have been erected without appropriate permission and not in accordance with the approved plans submitted by the original developer of this site. We recommend that these be removed and the grass reinstated.

- 5.2 One letter of objection has been received from Mr. D. Watkins, 101 Dorchester Way, Belmont, Hereford, HR2 7ZW. The grounds of objection are:

1. The new boundary fence will greatly affect my visibility/access onto the highway, giving me less than 5.5 metres visibility when reversing my car off my drive. Causing grave danger to myself and my wife and other motorists as well.

Though this particular part of Dorchester Way is relatively quiet in terms of vehicles there are often many small children who play in the street and a knock-on effect of having less visibility will be increased danger to them.

2. The price of land referred to by the applicant as "a strip of grass used as a doggy toilet, football/tennis pitch/court by local jobs", was, when the estate was built designated to be a green area, in public view. Since living in my property I have never seen this piece of and used as a "doggy toilet" or a "football/tennis pitch/court" and as far as I am concerned it is not an area where "local jobs" are associated with. The area is however an area the owner of 99 Dorchester Way has an obligation to up keep as part of their ownership of the property. An obligation many property owners have with "designated green areas" on this development, an obligation the owners of 99 Dorchester Way have not fulfilled since moving into their property around 2 months ago, with weeds now waist high in places.
3. Planning consent was granted to Persimmon Homes on the agreement so much of the development was left "green" in public view to improve the overall look of the development, moving this boundary fence will mean "green land" is lost on the estate, harming the overall look of the development.
4. In granting planning permission, Persimmon Homes were obliged to plant so many trees in public view, in moving this boundary fence one of those trees will be lost from public view, again harming the overall look of the development.
5. I further question and ask it to be investigated if the owners of 99 Dorchester Way have ownership rights for this piece of land, to move the boundary fence.
6. The applicant makes reference to the previous owners having discussion with Hereford Planning Authority, the previous owners only had a contact with the local authority when they were written to to inform them that moving this particular boundary fence would be in breach of planning law.

The full text of these letters can be inspected at Central Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

- 6.1 The proposed new fence alignment would contain a relatively small pocket of open land which may be described as incidental landscaped amenity land and depicted as such on the approved layout drawings for the residential development within which the site is located. It is an area within the ownership of the applicant and residential curtilage of No. 99 Dorchester Way and not public open space.
- 6.2 The relevant planning permission and approvals for the site layout do not restrict permitted development rights governing the means of enclosure for individual residential curtilages. It would be possible therefore, to erect a fence not exceeding a height of 1.00 metres, in the position now proposed, without the benefit of a further planning permission.
- 6.3 Whilst the surrounding housing layout contains extensive open frontages, it is by no means devoid of boundary enclosures particularly where associated with houses that

are positioned side on to the road. For example, immediately opposite the application site there is a 1.80 metre high brick boundary wall along the back edge of the footway.

6.4 Having regard to the previously mentioned policies, it is judged that the visual amenity value of the land, which it is proposed to enclose is not significant enough to warrant protection as open space. Moreover it is considered that the fence itself would not appear unduly discordant in the street scene or detrimental to the visual amenity of the area. Accordingly the proposal would not conflict with development plan policies.

6.5 Concerning matters of highway and public safety, the proposed fence alignment would not conflict with the visibility splay recommended, by the Traffic Manager, for the neighbouring driveway. Subject to a condition safeguarding the visibility splay, it is considered that the realigned fence would not represent an unacceptable obstruction to visibility during the use of the driveway and as such would not prejudice the safety of traffic and pedestrians using Dorchester Way.

6.6 In the light of the preceding matters it is considered that the proposal is acceptable.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. **A01 (Time limit for commencement (full permission)).**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2. **A06 (Development in accordance with approved plans).**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development.

- 3. **Within the visibility splay triangle outlined in red on the approved plan nothing shall be planted, erected or allowed to grow in excess of a height of 0.6 metres above the level of the adjoining footway.**

Reason: In the interests of highway safety.

Informatives:

- 1. **N03 - Adjoining property rights.**
- 2. **N04 - Rights of way.**
- 3. **N15 - Reason(s) for the Grant of PP/LBC/CAC.**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.