

Application Number: DM/2018/01122

Proposal: Retrospective application to extend curtilage to side of dwelling. Construction of 2m high brick wall 1.1m from inside of kerb

Address: 46 Treetops, Portskewett, Caldicot, NP26 5RT

Applicant: Mr Tracy Wotherspoon

RECOMMENDATION: Approve

Case Officer: Mrs Alison Pankhurst
Date Valid: 17.07.2018

1.0 APPLICATION DETAILS

1.1 This application relates to a detached dwelling in a quiet cul-de-sac on the edge of Portskewett village. The application is a result of an enforcement case for the retention of an extension to the garden curtilage and the re-building of a boundary brick wall. The brick wall encloses the side of the garden and joins up with the existing boundary wall and returns to the side of the dwelling. The applicant has also extended the curtilage of his garden by approximately 3m to include land which is in their ownership.

1.2 The existing wall which was set well back from the highway measured approximately 2m in height and when the applicant extended the curtilage the wall was demolished and repositioned and set back from the kerb by 1.1m in accordance with Highway requirements. The height of the new wall is 1.9m and constructed in red brick with a stoned margin strip adjoining the highway and some planting.

1.3 The proposed change of use of incidental land into residential curtilage measures approximately 3.5m to 5m from the original wall to the edge of the highway. The applicant has increased the garden curtilage by an additional 2.5m and finished the ground in small stone chippings. The distance from the edge of the highway to the wall is 1.1m in accordance with the Highway requirements. The applicant has replaced the original grassed area in order to extend the original garden curtilage.

1.4 The estate has a variety of walls, fences with shrubs and trees offering privacy and enclosure to dwellings. However the estate has an open plan feel adjacent to the highway and to the front of some of the properties in the street. The application site is a corner plot.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2018/01122	Retrospective application to extend curtilage to side of dwelling. Construction of 2m high brick wall 1.1m from inside of kerb.	Pending Determination	

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Development Management Policies

DES1 LDP General Design Considerations
EP1 LDP Amenity and Environmental Protection
MV1 LDP Proposed Developments and Highway Considerations

4.0 REPRESENTATIONS

4.1 Consultation Replies

Portskewett Community Council recommends approval.

MCC Highways - The application is for the retention of a 2m high brick boundary wall at 46 Treetops Portskewett. The applicant previously consulted the Highway Authority with regards to these proposals and the Highway Authority confirmed there are no grounds to object to the proposal provided that the wall is constructed outside the limits of the publicly maintainable highway, that being 1m from the carriageway kerb.

The wall has been positioned 1.1m behind the carriageway kerb which is outside the extent of the publicly maintainable highway. It is understood concerns have been raised over the obstruction of line of sight when driving along the carriageway. It should be noted a line of sight only exists within the public highway limits; therefore no right of sight exists over third party land. As explained above the wall has been constructed outside the highway boundary and therefore has no impact on the line of sight available within the public highway. Based on this there is no detrimental impact on highway safety.

In light of the above comments there are no highway grounds to sustain an objection to the application.

4.2 Neighbour Notification

Several neighbouring properties were consulted on the application and a site notice was placed on site. During the consultation period 18 letters of objection have been received and 1 letter of support.

The objections to the application are as follows:

The development is totally inconsistent with the character of the estate, which is generally exemplified by open fronted gardens and screening to rear gardens by brick walls set back from the highway behind wide grassed/planted verges. The new wall has been constructed using a brick that does not match the house or the original wall, or indeed any other brick used on Treetops. No attempt has been made to blend the wall sympathetically with the surrounding area, it has been built to a cheap price point, without either the coping detail or the brick pattern of the original wall (and other walls on the estate). It forms a discordant feature which degrades the visual amenity of the area.

Concerned that if a precedent is set by allowing this alteration, many other properties on Treetops will seek to extend their boundary walls thereby increasing the size of their enclosed gardens and the estate will become a brick jungle.

The new wall undermines the integrity of the design of the Treetops and destroys the open landscape concept that is integral to the estate. The new wall is red brick and a completely different colour to the property and indeed those on the development. The applicant advised that the previous, original wall that was demolished was also red brick. This is not the case as

evidenced by photos that have been submitted. This mismatch is detrimental to the overall look of the area and not in keeping with Redrow's design.

It is noted that the deeds of the properties state that "one cannot erect or plant or permit any gates wall or fences or hedgerows whatsoever between any wall of the dwelling on the plot and the road onto which the said dwelling abuts."

In addition, comments have been made regarding the positioning of this wall that removes a valuable visibility splay for traffic in both directions.

Concern regarding the type of bricks used for the development, this demonstrates lack of respect for the design of the estate, the views of the neighbours and the planning application process.

The original site was nicely laid out and I would like to see all original rules enforced.

Another neighbour states that not gaining full planning approval from MCC prior to the wall being constructed makes a mockery of the planning system. Should the occupiers have acted in good faith on the basis of the few local councillors "approval" then they should be compensated by them for removing the wall

Another neighbour states that the applicant advised that the original wall (now demolished) was built of red brick, this is not the case and that the applicant advised that they had consulted with immediate neighbour. I am a close neighbour and was not consulted in any way. Approving this application would have a detrimental effect on Treetops and have the propensity to depreciate the value of other properties in close proximity.

One letter of support was received during the consultation process and they have stated that no action would have been taken to deliberately cause a problem for others when the wall was built so hopefully an amicable solution can be found.

Three general observations have been made during the consultation process stating that they can see advantages to the applicants of having this wall and the extra garden space, but a lack of transparency and consultation invariably causes issues. It is absolutely inescapable that this is the only wall in the whole of Treetops estate where the bricks in the wall and the house are a different colour, together with a lack of softening features in the wall itself which makes it a bit of an unwelcome focal point.

Another general observation made states one cannot criticise our neighbour's desire to extend their rear and side garden by repositioning the wall to take in some additional land that was previously unused. Having recently extended our house and found it impossible to find matching bricks one has to compromise and adopt a best fit approach. The harsh wall colour effect experienced by other neighbours can be softened by the introduction of small trees and shrubs. This would be similar to other wall and boundaries constructed on Treetops.

5.0 EVALUATION

5.1 Principle of the proposed development

5.1.1 The application is for a change of use of private land in the applicant's ownership to enable them to increase the garden curtilage and the erection of a 1.9m high brick boundary wall. The site is located on a relatively large housing estate on the edge of Portskewett. The location of the detached dwelling is situated on an end plot on one of the branches of the estate which is in a cul-de-sac. The works to the site have already been carried out by extending the existing garden curtilage and the erection of the brick wall which is the same height and depth as the previous wall located to the side of the property. The applicants sought advice from MCC's Highways and

Planning Sections prior to works starting on the site. To achieve the necessary highway service strip the means of enclosure needs to be set back at least 1m from the kerbed edge, a requirement the constructed wall meets.

5.1.2 The original planning application for the estate imposed certain conditions and removed permitted development rights to erect means of enclosure on the estate, although this related to removal of right to erect enclosures to the front of the dwelling houses in order to retain an open plan estate.

5.1.3 Many objections have been received in relation to the type of brick material used to rebuild the wall as the colour does not match the existing dwelling and is considered therefore not to be in keeping with the estate in general. In response to the objections, the estate has a variety of brick colours used for different parts of the estate, and it is understood that the applicant did try and source the appropriate brick but unfortunately was unable to match the original colour. As with all brickwork it will weather in time and the impact of the brick wall will become less conspicuous. On balance, the wall as built is considered to be acceptable.

5.1.4 It is considered that the development is acceptable and complies with Policy DES1 and EP1 of the Monmouthshire Development Plan, subject to the mitigation suggested.

5.2 Highway Safety

5.2.1 In response to the Highways comments and objections to the development the applicants were advised prior to works commencing on site that the wall had to be set back at least 1m from the edge of the highway in order to meet the Highway requirements. The applicant subsequently erected the wall 1.1m away from the edge of the highway. In responding to the objectors' comments Highways have confirmed that vehicular visibility splays are acceptable and in accordance with Highway requirements and that no person has a right of sight over third party land.

5.2.3 It is considered that the development complies with Policy MV1 of the Monmouthshire Local Development Plan.

5.3 Residential Amenity

5.3.1 The objections to the application also state that the development will detract from the open character of the street scene and visual amenity of the residential area.

5.3.2 In response to this there was a condition on the original application to remove permitted development rights for enclosures to the front of residential dwellings. In this case, to the front of this dwelling there is still an open plan appearance and there are no enclosures to the front of the property. In addition there was no condition for the now enclosed land to remain as open space.

5.3.3 The retention of these works would have a minimal impact on the street scene due to the wide variety of side enclosures around this housing estate.

5.3.4 Restrictions within the deeds of the properties on this estate are a separate civil legal matter and not within the scope of the planning authority to consider.

5.3.5 In terms of the colour of the brickwork, whilst the applicants stated they tried to match the existing bricks they used an alternative to erect the enclosure to the rear garden. The colour does not match the existing dwelling or the original wall, although there is a mix of brickwork throughout the estate. While a different colour, the bricks will weather and mellow over time and it is not considered that the wall is so incongruous that it would warrant planning permission being refused.

5.4 Well-Being of Future Generations (Wales) Act 2015

5.3.4.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of

the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

6.0 RECOMMENDATION: APPROVE

Conditions:

1 The development shall be carried out in accordance with the list of approved plans set out in the table below.

REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.