
Report of the Chief Planning Officer

SOUTH AND WEST PANEL

Date: 23rd April 2015

Subject: Application number 14/06826/FU – variation of condition 3 of previous approval 14/02722/FU to amend boundary treatment at 22 Bridge Wood Close, Horsforth, Leeds LS18 5TR.

APPLICANT

Mr Manhar Parmer

DATE VALID

16th December 2014

TARGET DATE

10th February 2015

Electoral Wards Affected:

Horsforth

☐ Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION: Approve subject to the following conditions

- 1. Commencement within three years of the date of issue of planning permission 14/02722/FU**
- 2. Development to accord with approved plans**
- 3. The car port shall not be altered or converted to prevent its use by motor vehicles**
- 4. The visibility splay shall be retained clear of all obstructions for the lifetime of the development**

1.0 INTRODUCTION

- 1.1 This application has been brought to Panel at the request of Councillor Cleasby who is concerned about the unauthorised siting of a boundary fence.
- 1.2 This application seeks variation of a boundary treatment condition attached to a recent approval of planning permission which was for a two storey and single storey extension to side and rear. The condition requires the removal and re-siting of part of the property's boundary fence. The existing approval to which the condition

relates is presently the subject of an enforcement notice seeking the removal and re-siting of the fence, and the current application is an attempt to address this issue.

2.0 PROPOSAL:

2.1 Variation of condition 3 of previous approval 14/02722/FU to amend boundary treatment. Condition 3 is set out below:

2.2 *Notwithstanding the information shown on the approved plan reference PLA-001N dated 19.06.14 and within 6 weeks of the date of issue of this decision notice the existing 1.8 metre high timber boundary fence shall be removed and re-sited so that it maintains a minimum of 2 metres separation distance from the edge of the carriageway used by vehicles at all times. The resited fence shall be retained and maintained in that position thereafter for the lifetime of the development.*

In the interest of pedestrian and highway safety.

3.0 SITE AND SURROUNDINGS:

3.1 The host property is a two storey dwelling of brick and tile construction. It is the end property of a short terrace of four. It is located facing a short cul-de-sac of similar properties to the end of Bridge Wood Close.

3.2 A later development of four larger detached properties of stone construction have subsequently been added, which are accessed off Bridge Wood View. The property is located at the junction of these two residential access roads, which is just after a bridge which crosses a small beck.

4.0 RELEVANT PLANNING HISTORY:

4.1 14/02722/FU - Two storey and single storey extension to side and rear; alterations to boundary treatment to side and rear - approved

12/05265/FU – proposed two storey side extension with a rear sunroom and new boundary treatment to side – approved.

5.0 HISTORY OF NEGOTIATIONS

5.1 Discussions have been ongoing between the applicant's agent and officers since submission of the planning application in order to resolve highway safety concerns raised by the unauthorised works.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been publicised by means of site notices and neighbour notification letters posted on 16th December 2014. In response five letters of objection have been received which express concern that the City Council has failed to intervene in a land ownership dispute, and that the Council has also failed to enforce the condition which is the subject of this variation application.

7.0 CONSULTATION RESPONSES

- 7.1 Highways – no objections to the revised proposals subject to conditions to require the retention of the car port and the retention of the visibility splay.

8.0 PLANNING POLICIES:

The Development Plan

- 8.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 this application has to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The development plan currently comprises the adopted Local Development Framework Core Strategy (2014), those policies saved from the Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste Local Plan. Relevant supplementary planning guidance and documents and any guidance contained in the emerging Local Development Framework (LDF) represent material considerations.
- 8.2 The Local Development Framework **Core Strategy** was adopted by the Council on 12th November 2014. The following policies contained within the Core Strategy are considered to be of relevance to this development proposal:

P10 – Design

T2 – Accessibility Requirements and New Development

The most relevant saved policies from the **Leeds Unitary Development Plan** are outlined below.

GP5 - Development control considerations including impact on amenity

BD6 - Alterations and extensions

Supplementary Planning Guidance / Documents:

- 8.3 The **Householder Design Guide** was adopted by the Council as a Supplementary Planning Document in April 2012. The following policies from the Design Guide are relevant to this application:

HDG1: All alterations and extensions should respect the scale, form, proportions, character and appearance of the main dwelling and the locality/ Particular attention should be paid to;

- i) The roof form and roof line;
- ii) Window detail;
- iii) Architectural features;
- iv) Boundary treatments and
- v) Materials;

HDG2: All development proposals should protect the amenity of neighbours. Proposals which harm the existing residential amenity of neighbours through excessive overshadowing, over-dominance or overlooking will be strongly resisted.

Neighbourhoods For Living: A Guide for Residential Design in Leeds was adopted as Supplementary Planning Guidance by the Council in December 2003.

National Guidance - National Planning Policy Framework

- 8.4 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions.

9.0 MAIN ISSUES

- Highway safety
- Residential amenity
- Representations

10.0 APPRAISAL

- 10.1 This application follows two previous approvals in relation to this property. In 2012 planning permission was granted for a two storey side extension with a rear sunroom and new boundary treatment to side. However, discrepancies between the approved plans and the finished extension lead to the submission of a further application in 2014 which sought to regularise the consent. These discrepancies were considered to be relatively minor in nature and were not considered to cause material harm to the proposals. The proposal was therefore approved.

- 10.2 The 2014 planning permission includes condition 3 which reads:

Notwithstanding the information shown on the approved plan reference PLA-001N dated 19.06.14 and within 6 weeks of the date of issue of this decision notice the existing 1.8 metre high timber boundary fence shall be removed and re-sited so that it maintains a minimum of 2 metres separation distance from the edge of the carriageway used by vehicles at all times. The resited fence shall be retained and maintained in that position thereafter for the lifetime of the development.

Reason: In the interest of pedestrian and highway safety.

- 10.3 This condition was imposed as it was considered that the fence alignment causes some loss of highway visibility. The condition sought to have the fence alignment reinstated to the location originally approved in 2012.
- 10.4 As the condition included a time limit for action, an enforcement notice to require compliance was served in November 2014. The time limit for compliance with this notice expired in February 2015. However in the interim the applicant has submitted this application to vary the condition which seeks to address this issue.
- 10.5 The current proposal effectively seeks to restore visibility by reducing the height of the existing boundary treatment to less than a metre for a section around the north east corner of the site. Highways Services have been consulted on the proposal and considered that this approach would improve highway visibility to an acceptable level. The proposal is therefore considered to be an acceptable compromise solution in respect of the improvement of highway safety.
- 10.6 The proposed changes to the boundary treatment would only have a small effect upon the visual appearance of the scheme.

- 10.7 A public footpath, No.42 Horsforth, exists along the side of the property boundary. The footpath has a definitive width of 0.9m. The proposal retains the same width of path, and provides a hard surface including paving flags and brick paviours. It is therefore considered that the proposal makes adequate provision for the retention of the public right of way. The Council's Public Rights of Way team have been consulted on the proposals and do not raise objection to it. They have stated that they do not consider that there is an issue with the public footpath or its legal line.
- 10.8 Paragraph 187 of the NPPF requires that Local Planning Authorities should proactively look for solutions rather than problems, and should seek to approve applications wherever possible. In view of this advice, the proposed variation of the condition is considered an acceptable solution.
- 10.9 The applicant appears to be involved in a land ownership dispute with a neighbouring occupier which relates in part to the siting of the fence. It is alleged that the fence line as already constructed occupies land outside of the applicants' ownership. However, the applicant has submitted revised plans with a red line boundary that includes all of the fence within the site. Additionally the application includes a signed Certificate 'A' which states that nobody except the applicant is the owner of any part of the land to which the application relates.
- 10.10 Whatever the true situation, land ownership is a civil matter outside of the scope of the planning application and does not form part of the consideration of it. However if, as is alleged, the application does include land outside of the applicants' ownership, then the applicant should have served formal notice of the application on the owner to notify them of the proposals and would still require the agreement of the landowner. Given that the individual claiming ownership, and other neighbours, have objected to the application then clearly that person is aware of the proposals.

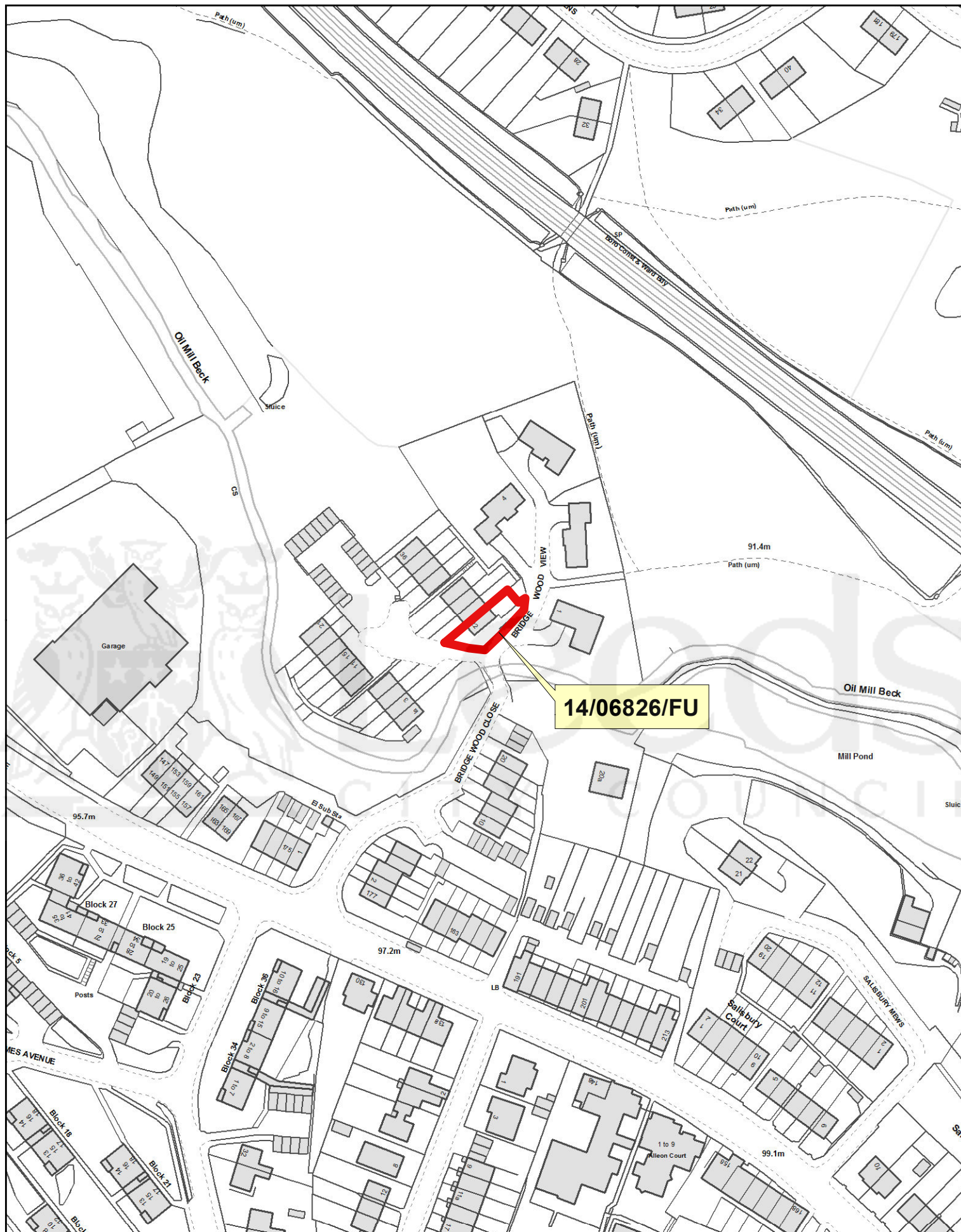
11.0 CONCLUSION

- 11.1 The application is for a variation of a condition requiring the removal of a boundary treatment in the interests of pedestrian and highway safety. The proposal adequately addresses highway visibility and is visually acceptable, and as such approval is recommended.

Background Papers:

Certificate of ownership: signed by applicant.

Planning application file



SOUTH AND WEST PLANS PANEL

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SCALE : 1/1500

