DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H01-0821-23**	**Applicant:**	**Broadgate Homes Ltd**
Proposal:	Details of proposed boundary treatments (Condition 6 of H01-0203-20)		
Location:	Land Rear Of 75 Backgate Cowbit Spalding		
Terminal Date:	16th November 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
05	Meeting Physical Infrastructure and Service Needs
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
12	Reserve Sites
17	Providing a Mix of Housing
18	Affordable Housing
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

5 - Delivering a sufficient supply of homes
12 - Achieving well-designed places
14 - Meeting the challenge of climate change, flooding and coastal change
15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

PROPOSAL

This is a condition compliance application for details of proposed boundary treatments (Condition 6 of H01-0203-20) at Land to the Rear of 75 Backgate, Cowbit. The proposal seeks to provide a 1.8 metre high timber fence along the northern boundary which finishes level with the frontage of Plot 4. After this point a 1.2 metre high timber palisade fence will be installed from the frontage of Plot 4 to level with the rear of the detached garage of 71 Backgate. The entirety of this stretch is bordered by an existing beech hedge approximately 3 metres high. Beyond the frontage of detached garage is an existing 1.8 metre high brick wall which drops to an existing 750mm high brick wall. Adjacent to the 750mm high wall are four overhanging trees inside the boundary of 71 Backgate.

The east facing frontage of the site is to be bordered by a 1.2 metre high timber palisade fence. The eastern boundary to the rear of Plots 1 and 2 will be bordered by a 1.8 metre high close boarded timber fence with an additional 0.3 metre high trellis top. The southern boundary to the rear of Plots 2 and Plots 3 will be bordered by a 1.8 metre high close boarded timber fence. This boundary is also bordered by an existing 2.4 metre high leylandii hedge, a 10 metre high leylandii hedge and a 4 metre high elder hedge. Along the western boundary to the rear of Plots 3 and 4 a 1.8 metre high close boarded timber fence with an additional 0.3 metre high trellis top will be installed. To the north west corner of the site beyond the detached garage of Plot 4 an existing 1.5 metre high close boarded timber fence will be retained. The western boundary fence is also bordered by an existing 5 merte high leylandii hedge which drops to 3 metres in height. The area to the rear of the Plot 4 detached garage is not bordered by any hedging. Hedgehog highways will be incorporated at various points along the northern, eastern and southern boundary fencing. These highways consist of a 130mm by 130mm holes cut out at the bottom corner of the new perimeter fencing.

An amendment to site levels was approved under reference H01-0961-21.The finished floor levels of the dwellings were set at 3.010 under Condition 11 of H01-0203-20. For reference, this level is 260mm lower that the existing floor level at No. 75 Backgate which is at 3.270. The dwellings on plot 1 and 2 are proposed to be raised 140mm to 3.150 and plot 3 and 4 to be raised 240mm to 3.250. This amendment would result in the proposed floor levels of the dwellings still lower than the floor level of No.75 Backgate. Therefore Plots 1 and 2 would be set at 440mm above ground level, and Plots 3 and 4 set at 540mm above ground level.

SITE DESCRIPTION

The application site sits to the rear of Nos. 75, 77 and 79 Backgate, and to the rear of 204, 206 and 208 Barrier Bank. It is a backland area of land with no frontage to the highway, except for the access point.

The proposal is within defined settlement limits and the surrounding area is characterised by dwellings of varying ages and design. The site straddles Flood Zones 1 and 2 and in defined settlement limits, therefore a sequential test is not required. The submitted Flood Risk Assessment proposes finished floor levels of 300mm above ground level.

RELEVANT HISTORY

H01-0203-20

Full - Residential development comprising 4 detached bungalows and garages - Approved - 20 October 2020.

H01-1163-20

Condition Compliance - Details of construction management plan, precautions for mud deposits on road, boundary treatment, tree protection, recommendations for ecological retention, tree works, access road construction and surface water disposal and storage and disposal of refuse and recycling (Conditions 3, 4, 6, 7, 8, 10, 12 & 15 of H01-0203-20) - Approved - 22 February 2021.

H01-0032-21

Condition Compliance - Details relating to written scheme of archaeology investigation (Condition 17 of H01-0203-20) - Approved - 26 January 2021.

H01-0961-21

Section 73 Modification - Residential Development comprising 4 detached bungalows & garages - approved under H01-0203-20. Modification of Condition 11 in relation to finished floor levels & cross sections - Approved - 20 October 2021.

CONSULTATION RESPONSES

None

EVALUATION

Assessment against Condition 6 of H01-0203-20 - Details of Boundary Treatment

Condition 6 states:

"Notwithstanding the details shown on the submitted plans, prior to its installation, full details of the proposed boundary treatments, including a schedule of fencing levels, heights and materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

Note: Where ground levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses, trees and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

The fencing installed shall accommodate routes for hedgehogs.

Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set including the amenity of nearby occupiers and for reasons of ecology. This Condition is imposed in accordance with Policies 2, 3 and 28 of the South East Lincolnshire Local Plan, 2019 and the National Planning Policy Framework, 2019."

The proposal seeks to provide a 1.8 metre high timber fence along the northern boundary which finishes level with the frontage of Plot 4. After this point a 1.2 metre high timber palisade fence will be installed from the frontage of Plot 4 to level with the rear of the detached garage of 71 Backgate. The entirety of this stretch is bordered by an existing beech hedge approximately 3 metres high. Beyond the frontage of detached garage is an existing 1.8 metre high brick wall which drops to an existing 750mm high brick wall. Adjacent to the 750mm high wall are four overhanging trees inside the boundary of 71 Backgate.

The east facing frontage of the site is to be bordered by a 1.2 metre high timber palisade fence. The eastern boundary to the rear of Plots 1 and 2 will be bordered by a 1.8 metre high close boarded timber fence with an additional 0.3 metre high trellis top. The southern boundary to the rear of Plots 2 and Plots 3 will be bordered by a 1.8 metre high close boarded timber fence. This boundary is also bordered by an existing 2.4 metre high leylandii hedge, a 10 metre high leylandii hedge and a 4 metre high elder hedge. Along the western boundary to the rear of Plots 3 and 4 a 1.8 metre high close boarded timber fence with an additional 0.3 metre high trellis top will be installed. To the north west corner of the site beyond the detached garage of Plot 4 an existing 1.5 metre high close boarded timber fence will be retained. The western boundary fence is also bordered by an existing 5 metre high leylandii hedge which drops to 3 metres in height. The area to the rear of the Plot 4 detached garage is not bordered by any hedging. Hedgehog highways will be incorporated at various points along the northern, eastern and southern boundary fencing. These highways consist of a 130mm by 130mm holes cut out at the bottom corner of the new perimeter fencing.

An amendment to site levels was approved under reference H01-0961-21.The finished floor levels of the dwellings were set at 3.010 under Condition 11 of H01-0203-20. For reference, this level is 260mm lower that the existing floor level at No. 75 Backgate which is at 3.270. The dwellings on plot 1 and 2 are proposed to be raised 140mm to 3.150 and plot 3 and 4 to be raised 240mm to

3.250. This amendment would result in the proposed floor levels of the dwellings still lower than the floor level of No.75 Backgate. Therefore Plots 1 and 2 would be set at 440mm above ground level, and Plots 3 and 4 set at 540mm above ground level.

The 1.8 metre high timber fence along the northern boundary is not considered to allow for an overlooking aspect. The detached garage at Plot 4 is not raised above ground level, and the east facing side elevation door faces the host dwelling. Obscure glazed windows at Plot 4 serving a bathroom and en-suite face the 1.8 metre high timber fencing located 2 metres away. The 1.2 metre high timber palisade fence between the frontage of Plot 4 and the rear of 71 detached garage of 71 Backgate will not allow for an overlooking aspect from Plots 1 and 4. This is because beyond the fence leylandii hedging at heights of 3 metres and 4 metres is proposed.

The existing 1.8 metre high brick wall on the northern boundary is located 13 metres from the nearest window of Plot 1, and 26 metres from 71 Backgate at the nearest point. The finished floor level of Plot 1 is 440mm above ground level. Therefore the existing boundary wall is 1.36 metres higher than the existing wall. Levels of the dwellings were previously approved under H01-0961-21. It is considered that the separation distance means that there will not be a material overlooking aspect on the driveway and southern side elevation of 71 Backgate to the north. There is no new development toward the frontage of the site adjacent to the 750mm high brick wall or the 1.2 metre high frontage fencing, therefore there is not considered to be an overlooking or character impact in this area of the site.

The eastern boundary to the rear of Plots 1 and 2 will be bordered by a 1.8 metre high close boarded timber fence with an additional 0.3 metre high trellis top. The detached garage of Plot 1 has a side access door that faces the Plot 1 dwelling therefore there is not considered to be an overlooking aspect from this building. Additionally, the 4.25 metre high detached garage is located 12 metres from the host dwelling at 75 Backgate. When right to light lines are drawn, coupled with 2.1 metre high fencing, there is not considered to be a material loss of light from this building.

The rear elevation of Plot 1 is located 21 metres away from the rear elevation of 77 Backgate to the east at the nearest point. When the 440mm finished floor level is taken into account the fencing is 1.66 metres high, therefore there is not considered to be a material overlooking impact when the new fencing is installed. The rear elevation of Plot 2 is located 23 metres away from the rear elevation of 79 Backgate to the east at the nearest point. When the 440mm finished floor level is taken into account the fencing is 1.66 metres high, therefore there is not considered to be a material overlooking impact when the new fencing is installed. Additionally, there is not considered to be an overlooking impact from the rear fenestration of Plot 2 to 81 Backgate located 37 metres away to the south-east. This is due to the separation distance and existing 2.4 metre high leylandii fencing along the southern boundary.

The southern boundary to the rear of Plots 2 and Plots 3 will be bordered by a 1.8 metre high close boarded timber fence. The south-west facing side elevation of Plot 2 faces the detached garage serving the plot with a 10 metre high leylandii hedge beyond which is undeveloped grass land. The south-east facing side elevation of Plot 3 also faces the detached Plot 2 garage and the 10 metre high leylandii hedge. There is not considered to be an overlooking impact in this location. The south-west facing rear elevation of Plot 3 is an average of 15 metres from the southern boundary where a 4 metre high elder hedge is located. Due to the height of this hedge and the proposed 1.8 metre high timber fencing, there is not considered to be an overlooking impact in this location.

There is not considered to be an overlooking impact to 208 Barrier Bank beyond the western boundary. This is because the rear elevation view of Plot 3 is blocked by the detached garage on the plot with a 1.8 metre high proposed fence and existing 5 metre high leylandii hedge beyond. There is not considered to be an overlooking impact to 206 Barrier Bank beyond the western boundary. This is because the boundary is not directly faced by the rear elevation windows of Plots 3 & 4, the proposed boundary treatment is a 1.8 metre high fence, and beyond this fence a 3 metre high leylandii hedge is located. There is not considered to be an overlooking impact to 204 Barrier Bank. This is because the views of this site are blocked by the detached garage serving Plot 4, beyond which a 1.5 metre high boundary fence will be retained. A 2 metre high shed is located immediately adjacent the western boundary, inside the garden of 204 Barrier Bank.

For the above reasons, the proposed boundary treatment is considered to be appropriate for the site. There is not a material overlooking or overshadowing impact on any of the proposed dwellings or existing neighbouring properties as a result of finished floor levels of the plots and the proposed boundary treatment.

CONCLUSION

Condition 6 of H01-0203-20 is considered to have been addressed.

RECOMMENDATION

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.