DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H03-0094-23**	**Applicant:**	**Mr A Pallot**
Proposal:	Erection of 2m high fencing - Retrospective		
Location:	1 Woodbank Deeping St Nicholas Spalding		
Terminal Date:	30th March 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development

National Guidance

National Planning Policy Framework 2021

Section 12- Achieving well designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	1	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a householder application seeking retrospective planning permission for a propose fence to the property at 1 Woodbank, Deeping St Nicholas.

Site Description

The property is situated within the settlement boundary of Deeping St Nicholas, according to Policy 1 in the South East Lincolnshire Local Plan, 2019. The detached dwelling sits within a residential cul de sac off of the main road through Deeping St Nicholas. The boundary treatment in question is situated along the north west boundary and faces the main road.

History

No relevant planning history.

Consultation Responses

Public comment (1 objection)

- Breaking planning rules.
- Sets a precedence for more 2m high fences to be put up.
- All of the properties in Woodbank have a deed of covenant that states: '5. Not to erect or permit or suffer to be erected any fence, boundary wall or other structure in advance of the front elevation of the dwelling and garage (whichever elevation is set back the furthest) erected at the date hereof on the property'.

Deeping St Nicholas Parish Council

No objections.

Local Highway and Lead Local Flood Authority

No objection. This proposal is for the erection of 2m high fencing - Retrospective and the access and parking arrangements remain unchanged; therefore, it is considered that the proposals would not result in an unacceptable impact on highway safety.

Planning Considerations

Design

Paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations. Likewise, Policy 2 of the SELLP states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

The height and material of the fence consists of 1.8m by 1.8m lap fence panels. The length covers the entirety of the north west boundary, approx. 40m. The proposed fence will be approx. 3.2m away from the road to the north west, which is also adjacent the footway, approx.1.65m away.

The wooden fence is partially screened by soft landscaping of 100 laurels have been planted in front of the fencing to soften the visual aspect of the panel fencing. There are similar fence panels situated along the panel road along this section, so it does not appear to be out of keeping or cause a detrimental impact upon visual amenity to the surrounding area.

Public comments have raised concerns about a restriction to development of fencing to the front of the dwelling. However, given that the Local Highway Authority have not raised any concerns, the proposed visibility and height of the fencing is not considered to be of any detrimental impact to the surrounding visibility and design of the cul de sac, given that it is partly to the side and front of the dwelling.

The design of the proposed boundary fencing is considered to comply with Policies 2 and 3 in the SELLP, 2019 and in accordance with Section 12 in the NPPF, 2019. Therefore it is deemed as acceptable.

Vehicular manoeuvrability and visibility

The Local Highway Authority have raised no objections to the fencing and observe that the parking arrangements would remain unchanged.

Given the above, the boundary treatment is considered to be compliant with Policies 2 and 3 in the SELLP, 2019 and is in accordance of Section 12 in the NPPF, 2019 and is therefore deemed as acceptable.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The boundary fence does not materially harm the character or appearance of the locality or adversely impact upon highway safety. It is therefore considered to be in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Conclusion

The recommendation is therefore for a delegated approval.

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.