DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0787-23**	**Applicant:**	**Mr J Asher**
Proposal:	Erection of boundary fence - Retrospective		
Location:	1 Beech Grove Donington Spalding		
Terminal Date:	7th November 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 2023	
Section 12 - Achieving well designed places	

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This is a householder application seeking retrospective permission for the erection of a boundary fence at 1 Beech Grove.

Site Description

The site lies within the defined settlement boundary of Donington as outlined within the South East Lincolnshire Local Plan, 2019 (SELLP). The property is situated just 200m outside of the Conservation Area within Donington. The dwelling is made of red bricks with white uPVC windows and doors and a tiled roof, the front elevation features a dormer window on the first floor above the front door and a bay window adjacent to this. The feature of the bay and dormer window are a common theme along Beech Grove.

History

H04-0381-91 - Erection of free standing wind up amateur radio mast - Approved

Consultation Responses

Lincolnshire County Council Highways

No objection -

The fence, for which Consent is hereby being sought, is not on any part of the highway and does not obstruct drivers' visibility at the junction of Beech Grove with Malting Lane. Therefore, having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County
Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety and therefore does not wish to object to this planning application.

Black Sluice Internal Drainage Board

The Board does not own the land within which this watercourse lies. The Board is only responsible for the conveyance of water. Within common law, ownership and maintenance responsibility is deemed to lie with the adjacent land or property owners.

The Board has a byelaw (No.10) which prohibits the siting of any obstructions, whether temporary or permanent, including planting, within 9 metres of the lateral edge of the enclosing piped structure without the prior written consent of the Board.

However, as the fence has already been erected, within law the Board cannot issue retrospective consent. The applicant is therefore advised that should the Board require access to the piped watercourse, either to carry out maintenance or to repair or replace the structure, then given prior notice, the applicant will remove the fence and any posts at their expense. The applicant will then be expected to realign the fence, with the consent of the Board, to ensure that the Board has unrestricted access at all times.

South Holland District Council Environmental Protection Officer

No comments.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, one letter of representation has been received and is summarised below -

- We think it's a huge improvement to what was there previously and have no objections to it at all

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019,

forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Planning Considerations

Layout, Design and Consideration of the Character and Appearance of the Area

Paragraph 130 of the National Planning Policy Framework (NPPF), 2023 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, that they are visually attractive, as a result of good architecture, and are sympathetic to local character. 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. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

The fence will be the same height throughout the whole proposal and sits at 1.8m tall. It is set back around 9m from the highway to the front and from then it runs the full length of the rest of the boundary, providing adequate privacy to the rear garden. The materials featured on the fence are as follows, there are 8ft concrete posts with concrete gravel boards and 5ft 8-inch wooden fence panels, there are other fences in the immediate area which are made of or feature wood throughout the design and this therefore ensures that the materials match what is nearby. There are also multiple different designs of boundary treatments, for example there are a plethora of hedges, small walls, post and rail fences and finally one similar close boarded fence further down the road. It is therefore considered that as there is no one set design for boundary treatments this retrospective fence is considered acceptable.

Impact on Residential Amenity/Land Users

Paragraph 130 of the National Planning Policy Framework (2023) states that development should 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The fence is within 2m of a road and this is the reason the application has been submitted, despite the distance to the road it is considered that it wouldn't cause any concerns regarding unsafe access/egress.

In any case, the fence is not considered to result in any overbearing impact or overshadowing. As such the proposal is not considered to unacceptably harm the residential amenity of neighbouring properties by reason of unacceptable overshadowing or overlooking.

Highway Safety

Paragraph 111 of the NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation.

Lincolnshire County Council Highways were consulted on this application with a potential that it causes harm upon the safety of the road due to its closeness. Following the consultation, it was concluded that the fence would not be expected to have an unacceptable impact upon highway safety and 'does not obstruct drivers' visibility at the junction of Beech Grove with Malting Lane' and therefore they have no objection to this application.

Planning Balance

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal represents appropriate development within the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning policy Framework when viewed as a whole.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 2 & 3 of the SELLP, along with the identified sections contained within the NPPF. The are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above

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.

Recommendation

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