

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H06-0496-23 **Applicant:** Mr P Huckle
Proposal: Proposed palisade fence - Retrospective
Location: Cindy Lou Main Road Gedney Drove End
Terminal Date: 7th August 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

- 01 Spatial Strategy
- 02 Development Management
- 03 Design of New Development

National Guidance

National Planning Policy Framework 2021

Section 12 of the National Planning Policy Framework (2021)

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This application is for the erection of a 10 foot tall palisade fence to the rear boundary of Cindy Lou, Main Road, Gedney Drove End.

Site Description

This site constitutes the remaining plot of the former property 'Cindy Lou'. This property was demolished under H06-0007-14 which permitted the removal of the then extant bungalow to be

replaced with a new dwelling. The bungalow was demolished, but as of the time of this application, no progress has been made in constructing the new unit. Therefore, the site is a derelict building site, with 2 static caravans situated which serve as the occupancy on site during building works.

Beyond the rear boundary of the property lies open countryside formed of arable farming land.

The site forms a part of the continuous ribbon development within Gedney Drove End, therefore the site has neighbouring residential plots in relatively close proximity in all directions other than to the South. The area is characterised by mid-C20th residential development.

History

H06-0007-14

Replacement bungalow. APPROVED on 27-03-14.

Consultation Responses

Local Residents

2 Local Residents submitted letters of objection. Their comments can be summarised into the following points of objection:

- A boundary fence can be no higher than 6'6" under UK law.
- Proposed fencing type is industrial in style and therefore not suited to the setting.
- No permanent dwelling currently on site.
- There is currently no structurally sound boundary on site.
- Unkempt, oversized trees are close to the proposal site
- Boundaries other than the proposed palisade are insufficient for the safe keeping of animals, as the applicant suggests is the purpose.
- Garage Structure on site is falling down.
- Planning Portal states that no structure can be erected that is greater than 2.5m in height if within 2m of a boundary
- Removal of trees would harm privacy, local wildlife and outlooks

Gedney Parish Council

No Objections

Planning Considerations

Resident Objections

Each of the points raised by residents as outlined above in the Consultation Responses section of this report are addressed, in order, below:

- *A boundary fence can be no higher than 6'6" under UK law.* - There is no legal limit on the height of fences for which the Local Planning Authority can grant consent, and therefore, this is not a material consideration.

- *Proposed fencing type is industrial in style and therefore not suited to the setting.* - The proposed fencing would be to the rear of the property, only upon the rear boundary of the plot. This boundary backs onto open countryside, where similarly industrial fences can be seen. Furthermore, because of the location of the fence, it cannot be said to impact upon appreciation from the public realm of the general character of Gedney Drove End and there is no protected right to a view, particularly outside of the setting of listed building or other protected settings.

- *No permanent dwelling currently on site.* - The fact that there is not currently a dwellinghouse on the site and that the applicant has not made recent progress on their proposal bears no weight whatsoever on this application. Each application is made and considered on a case-by-case basis and there is no restriction on the validity of this proposal as a result of other planning matters.

- *There is currently no structurally sound boundary on site.* - As above, the condition of the site and other structures or boundary treatments is irrelevant to the consideration of this application and

therefore are not material considerations

- *Unkempt, oversized trees are close to the proposal site.* - As none of the effected trees are subject to Tree Preservation Orders, the condition of trees and planting on this site is irrelevant to the determination of this application and therefore not a material consideration.

- *Boundaries other than the proposed palisade are insufficient for the safe keeping of animals, as the applicant suggests is the purpose.* - The condition of the site and other structures or boundary treatments is irrelevant to the consideration of this application and therefore are not material considerations.

- *Garage Structure on site is falling down.* - The condition of the site and other structures is irrelevant to the consideration of this application and therefore are not material considerations.

- *Planning Portal states that no structure can be erected that is greater than 2.5m in height if within 2m of a boundary* - There is no such rule in Planning Legislation to restrict Planning Authorities from granting consent for domestic fences of a height greater than 2.5m within 2m of a boundary. This refers to the limit for structures to be erected without the need for planning consent. In the case of fences, the limitation on permitted development is stricter, being a maximum of 2m in height anywhere without consent. Seeing as the applicant is seeking consent for this work with this application, this objection is not considered pertinent to the determination of this application.

- *Removal of trees would harm privacy, local wildlife and outlooks* - No nearby trees are subject to protection via Tree Preservation Orders or Conservation Areas, and as such their removal or alterations is not subject to planning control, and so the applicant is free to conduct works to trees on their own property without the need for permission from the Local Planning Authority. Furthermore, the trees there is no protected right to a view, or to preserve an outlook in aspic. Moreover, the applicant has confirmed that they do not intend to remove the trees upon the western boundary of the property - the applicant seeks only to trim these trees.

Design and Layout

The Local Planning Authority wishes to raise no objections to either the design or layout of the proposed fence. Whilst the proposed fencing is out of the standard for the immediate area in terms of design, it is proposed to be situated solely upon the rear boundary, which is not visible from any area of the public realm and therefore. the design has no material negative impact upon the visible character of the area. Additionally, no objection is raised to the layout as it is appropriate for the proposed boundary use.

Residential Amenity

The Local Planning Authority does not consider there to be any risk presented to the residential amenity of any neighbouring properties. This is because the proposed fence, whilst tall, is not opaque and allows light to pass through due to the gaps between the palisade railings. Furthermore, the fence would be situated to the south of any residences, and therefore would not intersect with the east - west trajectory of the sun, meaning there is no material risk of detrimental overshadowing.

Amenity in relation to trees

Some local residents' objections raised concerns with regards to the potential for the removal of trees, The applicant has confirmed, in writing, that this application does not seek to remove the trees, they only seek to trim the trees which have become overgrown on the western boundary. The local planning authority does not consider these trees to be important to the amenity of the area. The wider setting is characterised by ribbon housing development, backing onto open fields and as such, a reliance upon planting and trees is not crucial to the visual appeal and character of the setting, and neither do the trees in question have any role in protecting existing residential amenity by means of blocking overlooking or otherwise granting established privacy.

Conclusion

For the reasons listed above, this application is deemed to be in accordance with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan (2019) as well as Section 12 of the National Planning Policy Framework (2021). Therefore this application is recommended for 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.