

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H09-0094-20 **Applicant:** Mr & Mrs Hobbs
Proposal: Proposed 1.8m high close boarded fence
Location: 10c Albert Street Holbeach Spalding
Terminal Date: 3rd April 2020

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy
02 Development Management
03 Design of New Development
29 The Historic Environment

National Guidance

National Planning Policy Framework 2019

Sections 12 and 16 of the National Planning Policy Framework

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This full planning permission application is for a proposed 1.8m high close boarded fence at 10c Albert Street.

Officer Note: This application comes as a result of failure to comply with the parameters discharging condition 16 of H09-0708-11 under application H09-0192-12 - condition compliance application which amongst other matters agreed that there would be a brick wall of 1.8m height. This came as a result of the wording of condition 16 of H09-0708-11 which stated that a brick boundary wall should be erected to the rear. Instead of complying with the determined plans, a timber fence was erected

of a height much lower than 1.8m. The applicant was required to address this discrepancy by the enforcement case REF: ENF-214-16-E09 - this application should be taken as the applicant's initial formal response to this enforcement case. The logic behind this application being that a new, taller timber fence will be erected to meet the 1.8m standard outlined in the condition compliance application in order to end the residential amenity conflict, whilst not having to go to the expense of erecting a brick wall.

Whilst a fence of 1.8m in height would usually fall under permitted development rights as afforded by the Town and County Planning (General Permitted Development) (England) Order 2015, the applicant still wishes to apply for planning permission so that the new fence is formalised.

It is hoped, by the applicant, that this matter, if approved and thereby formalised, will discharge the need for further action relating to ENF-214-16-E09.

Site Description

The proposal site is a small, new build 2 storey residential building comprising of two self-contained apartments. To the rear of the site are residential properties and a car park for apartments and shops fronting High Street. The site is within the Holbeach Conservation Area (HCA). The area which it is proposed the replacement fence will be located is visible from the public realm, but not prominently.

The Albert Street area of the HCA is characterised largely by a mix of Georgian and Victorian terraced properties and the adjacent Grade II listed Nos 2, 4, 6 (Jocelyn Darlow) and 8, Baptist Chapel and Nos.1,3 & 5.

History

H09-0708-11

Erection of two self-contained apartments. Approved on 07/12/2011

H09-0192-12

Details of existing and proposed site levels, external materials, window frames and design of doors, rainwater goods, external meter boxes, large scale plans of window and door head arches, eaves and chimney and rear boundary treatment (Conditions 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 15 and 16 of H09-0708-11). APPROVED on 28/08/2012

H09-0379-12

Erection of two self-contained apartments previously approved under H09-0708-11. Amendments to side and rear elevations. APPROVED on 09/07/2012

Consultation Responses

None received.

Planning Considerations

Principle of development

Under normal circumstances, a 1.8m height timber fence would fall under permitted development as the proposed location is not adjacent to the highway. However, given the particular circumstances of this case, the applicant has sought formalisation of the proposed arrangement. The principle of development is acceptable.

Heritage impact

The Local Planning Authority does not consider there to be any risk to the significance of any designated or non-designated heritage assets. Whilst the site is within the HCA and in very close proximity to various Grade II listed properties, this proposal is only very small-scale and would not appear out of place or alien to its historic setting. Timber is considered a traditional and vernacular material for fencing in the area and several very similar examples can be seen in the vicinity of the

host property. Furthermore, the new fencing will only be partially visible from the public realm.

Due to the lack of an impact that this proposal will have on any nearby heritage assets, this application can only be considered to CONSERVE the historic environment.

Residential Amenity

One of the reasons that a boundary wall was requested during the 2011 planning application was to preserve the residential amenity of the neighbouring properties. During the condition compliance application, it was accepted that a 1.8m high boundary wall would protect the privacy of neighbours. The fence that was erected contrary to planning permission fell short of this requirement, damaging the residential amenity of neighbouring properties. The introduction of a 1.8m boundary wall, then, enhance/restore the residential amenity of the neighbouring properties and there should be no further risk of overlooking proposed by 10c.

Conclusion

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 xxx 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 xxx 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.