DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H14-0285-20**	**Applicant:**	**Mr R Cundy**
Proposal:	Erection of boundary fence (retrospective)		
Location:	8 Burma Avenue Pinchbeck Spalding		
Terminal Date:	25th September 2020		

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 2019

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	1	0

CASE OFFICER ASSESSMENT

Proposal

This is a retrospective application for the erection of a boundary fence at 8 Burma Avenue, Pinchbeck, Spalding.

The proposal seeks to retain a fence which projects beyond the side boundary at the rear of the property towards Burma Avenue. This fence brings inside existing grassed residential land that is within the ownership of the applicant. The fence line is now sited 0.75 metres from the highway and

is 1.8 metres in height.

Site Description

The site is a corner plot. The property is a two-storey detached property facing north. The rear garden is to the south. The eastern part is grassed land associated to the domestic garden of the dwellinghouse. The surrounding area is characterised by residential development. A certain variety has been observed although most of the properties share age and design.

History

None

Consultation Responses

LCC Highways/SUDS Authority

No objection.

Planning Considerations

Principle of development

The site is within the settlement boundary for Pinchbeck as set out in the South East Lincolnshire Local Plan (SELLP), 2019. The principle of a mean of enclosure that is incidental to the enjoyment of a dwelling house is acceptable.

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 key material considerations are addressed below.

Design and layout

Paragraph 127 of National Planning Policy Framework (NPPF), 2019 establishes that planning policies and decisions should ensure that developments are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting, 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 mean of enclosure for which retrospective permission is sought is a 1.8 metre high timber close board fence. It extends from the rear wall of the house and then surrounds the rear garden so that there are no views from the road. A garden gate of identical material is adjacent to the south-western eave of the building. The entrance is relatively shorter than the remainder of the fence.

The position of the fence is such that the front boundary adjoining the curve remains disclosed. In doing so, the mean of enclosure does not adversely conceal most or entirely the site which would appear at odds with the site itself as well as the wider street scene. There is no similar fence extending along the front boundary of neighbouring plots. In fact, the row of detached properties on the southern side of Burma Avenue do not have any boundary treatment to their front.

On balance, the development is still sympathetic with the surroundings complying with the aforementioned policies concerning about design, layout and character of the local area.

Highways safety

The fence is set back 75 centimetres from the edge of the foot walk and stands up at least 7 metres away from the vehicular access of the adjacent property No. 6 to the south. It is considered that sufficient visibility splay is ensured for the motor vehicles drivers exiting such adjacent site.

In terms of highway safety, the County Highways Authority has raised no objection to the existing development. Therefore, the development is considered acceptable in this respect.

Residential amenity

Both the position and height of the fence are not excessive insofar the development will undermine the amenity standards of residents in the vicinity.

The development therefore complies with residential amenity which is one of the key principles of design and development management as set out in Policies 2 and 3 of SELLP (2019).

Conclusion

Taking into account the considerations above, the proposal is considered to comply with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019 as well as Section 12 of the National Planning Policy Framework (NPFF), 2019.

It is accordingly recommended to approve this planning application via delegated powers.

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.