DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H14-0644-23**	**Applicant:**	**Mr P Ndoro**
Proposal:	Erection of Boundary Fence - Retrospective		
Location:	5 Atherton Gardens Pinchbeck Spalding		
Terminal Date:	2nd 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
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a householder application seeking retrospective planning permission for the erection of a boundary fence at 5 Atherton Gardens. The fence has a total height of 2m and has a total length of 8m.

Site Description

The site lies within the settlement boundary of Spalding as outlined within the South East Lincolnshire Local Plan, 2019 (SELLP). It is a newbuild property located within the Pinchbeck Fields estate, the properties within this area are all similar house types scattered throughout the estate. This specific dwelling features red brick with a cream rendering making up the majority of the front elevation, it features white uPVC windows and doors with a small external porch area. The roof is made of black roof tiles and four solar panels.

History

H14-0156-14 - Erection of 169 Residential Dwellings with Associated Garages and Infrastructure - Approved

Consultation Responses

Lincolnshire County Council Highways

No objection -

The fence, for which Consent is retrospectively being sought, faces onto a Private Drive and so its retention would not be expected to have any unacceptable impact upon highway safety. The highway authority does not therefore wish to object to the grant of Consent for this Application.

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 as follows -

- The fence creates a problem for those choosing to park on the side as they will not be able to open the drivers door but also creates congestion
- There is not enough space for neighbouring individuals to park on either side due to the fence and because it is a dead end road and turning point for all who live here
- Emergency vehicles will find it difficult to operate
- I have not seen anyone else erect a fence so tall, this fence not only blocks our view but also ruins the aesthetics of the developer site
- If the neighbour on the opposite side decides they want to also erect a fence we will be accessing our home through a tunnel
- There cannot be a fence on the edge on the road as the left side on the road, according to the land registry is dedicated for our use
- There is also no street lighting in our road and this fence blocks the main road street light and limits visibility when trying to park our vehicles into the driveway

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 is made of wood, as the application is retrospective following a site visit it was clear how it looks in regards to the area it is within, the materials used make it look like a standard wooden fence and therefore not out of place and in keeping. It has a height of 2m with a total length of 8m, this is split up into 2m at the front, 4m on the side and 2m again at the rear. In regard to the design, there are similar fences in the immediate area specifically down this small private drive which leads to further dwellings, therefore it is acceptable and will not look out of place. The majority of the fences are made of one design which is what this fence also looks like and therefore it is in keeping with the area. This means it won't stand out and is in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

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 Impact

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 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 and 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.