

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H14-0770-20 **Applicant:** Mr S Fern
Proposal: Proposed Boundary Fence
Location: 111 Atherton Gardens Pinchbeck Spalding
Terminal Date: 14th December 2020

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

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	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a householder application seeking permission for a proposed boundary fence at 111 Atherton Gardens, Pinchbeck.

Site Description

The property is a detached dwelling situated in a new development, which is still under construction, off Wardentree Lane.

The property is situated on a corner plot on the junction of Atherton Gardens and Palgrave Way. Currently there is no boundary treatment beyond the existing fence to the site of the rear garden. The driveway and garage is situated to the south of the property.

History

None relevant.

Consultation Responses

Pinchbeck Parish Council - No comments.

Local Highway and Lead Local Flood Authority - Do not wish to restrict the grant of permission.

Planning Considerations

Design

The proposed height and material of the fence will be the same as the existing fence enclosing the rear garden (1.8m high and closeboard). The length will be approx. 16.3m along the boundary to the west, extending from the parking space to the rear almost as far as the front elevation of the dwelling, and will extend out approx. 3.6m from the side elevation of the dwelling. The proposed fence will be approx. 1.8m away from the road to the north, but would be almost adjacent the footway to the west.

Although the proposed wooden fence would not particularly benefit the appearance of the street scene, there are other instances on the development where fencing is positioned in a similar manner (Plots 2, 141 and 142). Impact on character would therefore not be a sufficient reason for refusal alone.

The design of the proposed boundary fencing is considered to comply with Policies 2 and 3 in the SELLP, 2019 and in accordance with Section 12 in the NPPF, 2019. Therefore it is deemed as acceptable.

Vehicular manoeuvrability and visibility

A 1.8m high fence to the side of the property will not impact upon vehicular manoeuvrability and visibility along Atherton Gardens and Palgrave Way.

The junction will not be impacted by the proposed fencing due to the proposed pedestrian visibility splay which is considered acceptable by the Local Highway Authority. Local Highways have also recommended a visibility splay similar to the fenceline at the front of the property, to the boundary fence adjacent to the driveway allowing anyone walking along the footway, a better advanced warning when a vehicle is about to reverse out of the driveway. This has now been added as a condition.

Given the above, the proposed boundary treatment is considered to be compliant with Policies 2 and 3 in the SELLP, 2019 and is in accordance of Section 12 in the NPPF, 2019 and is therefore deemed as acceptable.

Planning Balance

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 proposed boundary fence does not materially harm the character or appearance of the locality or adversely impact upon highway safety. It is therefore considered to be in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

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.

Conclusion

The recommendation is therefore for a delegated approval.