

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0220-24 **Applicant:** Mr C Boz
Proposal: Erection of boundary fence - Retrospective
Location: 147a Hawthorn Bank Spalding
Terminal Date: 22nd May 2024

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 2023

Section 12 - Achieving well designed and beautiful places

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Description of Proposal

The proposal seeks householder planning permission for the erection of a fence with a maximum height of 2300mm at 147a Hawthorn Bank. This application is retrospective, with the eastern section of fencing already in situ. The fence would follow the perimeter of the property. It would be a light coloured, close boarded timber fence.

Along the eastern boundary with 11 Tavistock Road and the western boundary with 145 Hawthorn Bank, the fence would have a maximum height of 2300mm. All other boundaries the fence would not exceed 2200mm. 300mm of this height would be a gravel board, which would be largely obscured once ground works are completed.

Site Description

The site is within the settlement boundaries of Spalding, as outlined within the South-East Lincolnshire Local Plan, 2019. The area is residential in nature, featuring a variety of dwelling design and scale. That being said, there is a general preference for bungalows.

147a is a back-land plot, featuring a half complete bungalow and detached garage. The ground level of the plot is far greater than the surrounding area, with this issue being exacerbated by the additional raising of the dwelling's finished floor level. Due to this, the dwelling appears far taller than its immediate counterparts despite being single storey. The dwelling itself is still under construction but is a red brick bungalow with dark grey roof tiles.

Relevant History

H16-0352-20 - Outline. Erection of bungalow and garage. Refused 24/06/20. Allowed on Appeal 03/06/21.

H16-0842-22 - Reserved Matters. Erection of bungalow and garage - outline approval H16-0352-20 (approved on appeal). Approved 02/11/22.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, two letters of objection have been received.

These can be summarised as:

- The fence is already in situ
- Fence is too high
- Fence is unsightly
- The "good side" of the fence is facing the host dwelling
- The fence has damaged neighbouring fences
- Privacy should be achieved through privacy windows etc instead
- Overshadowing
- Loss of views

Key Planning Considerations

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South-East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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, December 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality

agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is within the settlement of Spalding which is classed as a sub-regional within Policy 1. As such development will be permitted that supports Spalding's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

As the site is within the defined curtilage of 147a Hawthorn Bank, development within this location is considered appropriate. Therefore, the proposal is considered to be in accordance with Policy 1 of the SELLP. The principle of development on this site is considered acceptable subject to other material considerations being met.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed and beautiful places", states that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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.

These policies accord with the provisions of the NPPF and require 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. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

As the area is residential in nature, fencing is extremely common. Fences are present along all boundaries bar the eastern boundary with 145 Hawthorn Bank (where a hedge is present) and the southern boundary with 147 Hawthorn Bank. These fences would go some way to naturalising the proposal; albeit, it is noted that the fence subject to this proposal is greater in height than the majority of fencing within the surrounding area.

The ground level of 147A Hawthorn Bank is notably higher than neighbouring properties, being at least 300mm higher. This has resulted in any proposed fencing being erected within the curtilage of the dwelling, appearing appear notably higher when viewed from neighbouring properties. This differential means that even a standard 2000mm fence (which could be erected via permitted development) would have the potential to cause a visual impact. The additional extent of the fencing is not considered to give rise to an unacceptable impact on the character of the area.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal

is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The proposed fencing is somewhat necessary to prevent overlooking from occurring. Without this fencing, as is the case now, occupants would have clear views into neighbouring dwellings, including views into gardens and through windows.

It was noted by the Officer while conducting their site visit that, even when within the garden of 147A Hawthorn Bank, overlooking was a potential concern due to the aforementioned higher ground level. The existing neighbouring fencing, which are approximately 1800mm from the ground level of their host dwellings, appear to be inadequate in this regard and do not sufficiently obscure views into these dwellings. For these reasons, it is considered that the fence is necessary to prevent significant overlooking from occurring and to protect residential amenity.

Furthermore, it is considered that the required privacy could not be achieved via internal alterations to the dwelling at 147A as the garden level of 147A is high enough as to overlook neighbouring dwellings.

An objection has been received stating that the fencing overshadows their dwelling's kitchen. While this objection has been closely considered, it is judged that, as any potential loss of light would impact a non-habitable room and would not be significantly greater than a 2000mm high fence, this does not outweigh the benefits created by the fence.

The extent of fencing, when considered with regard to the potential to erect a 2000mm high fence, is not considered to give rise to an unacceptable additional impact to the residential amenities of neighbouring occupiers.

As detailed above, the scale and design of the proposal is considered to have no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, 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. As the floor level of the dwelling has been raised significantly, a balance has to be struck between the privacy of the occupants and neighbouring dwellings and the character impact of the development. Without the fence proposed here, the residents of 147a would have clear views into all adjacent dwellings; and would therefore, represent a significant overlooking concern. The character impact, is considered to be less significant and less detrimentally impactful than this overlooking concern. Therefore, on balance, it is considered that the proposal is acceptable.

Conclusion

Taking these factors into consideration, the proposal is considered to comply with Policies 1, 2 and 3 of the SELLP, as well as Section 12 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.

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.