

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H23-1206-22      **Applicant:** Mr T Grint  
**Proposal:** Erection of boundary fence - retrospective  
**Location:** 148 Broadgate Whaplode Drove Spalding  
**Terminal Date:** 3rd March 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 2021

Section 12. Achieving well-designed places

### Representations:

|                | Object | Support | No Obj. | Comments |
|----------------|--------|---------|---------|----------|
| PARISH COUNCIL | 0      | 1       | 0       | 0        |
| WARD MEMBER    | 0      | 0       | 0       | 0        |
| RESIDENTS      | 1      | 0       | 0       | 0        |

### CASE OFFICER ASSESSMENT

#### Proposal

This is a householder application that seeks retrospective permission for the erection of a boundary fence along the southern boundary standing at 2.27 metres in height.

#### Site Description

The site is located on Broadgate, within the Whaplode Drove settlement boundary. It comprises a detached bungalow located on a residential street. The site benefits from a single attached garage to the side and a gravelled driveway for further off-street parking provision. The site backs onto

open countryside.

## **History**

No relevant planning history.

## **Consultation Responses**

### Whaplode Parish Council

Supports the scheme.

### Local residents

One letter of objection has been received from the neighbour at 150 Broadgate siting the following concerns:

- The fence exceeds permitted development allowances
- The fence appears ugly and dominant
- The added height makes little to no difference to the applicant's privacy

## **Planning Considerations**

### Design and layout

Paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting; and 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 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.

On letter of objection has been received from the adjacent neighbour siting concerns of the fence appearing dominant and ugly and exceeding permitted development allowances.

With regards to concerns of the fence exceeding permitted development allowances, this is noted, hence the need to submit a formal planning application. There is not set criteria with regards to the height of boundary fences therefore each site/application is considered on its own merits. In any case, the fence is not considered to result in any significant unacceptable impact on the character of the area. It is only 0.27 metres over the 2 metre allowance which is not considered significant enough to warrant a refusal, especially considering the fence sits behind the property lines and a significant distance from the road therefore it does not appear overly prominent in the street scene.

As such the fence is considered acceptable and does not on balance materially harm the character or appearance of the locality and therefore satisfactorily complies with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the NPPF in this respect.

### Residential amenity

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. They are consistent with advice within the National Planning Policy Framework (2021). Paragraph 130, amongst other matters, seeks places with a high standard of amenity for existing and future users.

The adjacent neighbour at no.150 Broadgate has objected to the proposal on grounds that the fence appears dominant and is unnecessary as it makes little to no difference to the applicant's privacy. The concerns are noted, however, given the fence is only 0.27 metres higher than what they can erect under permitted development, the scheme could not reasonably be resisted. In any case, the fence is not considered to result in any overbearing impact or unacceptable levels of overshadowing on this neighbour.

As such the proposal is not considered to unacceptably harm the residential amenity of adjacent neighbours by reason of unacceptable overshadowing or overlooking.

### Planning Balance

The fence is not considered to materially harm the character and appearance of the area or result in neighbouring amenity issues.

### Conclusion

Taking into account the considerations above, the proposal accords with Policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019; and also Section 12 of the National Planning Policy Framework (NPPF), 2021.

### **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**

The application is approved under delegated powers.