

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 13 March 2019

(Author: David Grant - Planning Officer)

Purpose: To consider Planning Application H18-0025-19

Application Number: H18-0025-19

Date Received: 09 January 2019

Application Type: FULL

Description: Change of use of land to domestic garden and erection of fence (retrospective)

Location: WIDGEON 26 WHARF STREET SUTTON BRIDGE

Applicant: Mr D Stroud

Agent: Mr D Stroud

Ward: Sutton Bridge

Ward Councillors: Cllr C J T H Brewis
Cllr M D Booth

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H18-0025-19>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The application raises issues that warrant consideration by the Planning Committee.

2.0 PROPOSAL

2.1 This is a retrospective full planning application for the change of use of land to a domestic garden and the erection of a boundary fence at Widgeon, 26 Wharf Street, Sutton Bridge.

3.0 SITE DESCRIPTION

3.1 The proposal is inside the defined settlement limits of Sutton Bridge. The proposal seeks to retain a boundary fence to the east of the property, adjacent to the junction of Wharf Street and Nene Meadows. The owner has provided confirmation documents from the Land Registry that they own the land around which the 1.8 metre high timber fence is sited.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South Holland District Local Plan, July 2006

The Council is in the process of finalising a new Local Plan (the South East Lincolnshire Local Plan). The new Local Plan has been through its formal Examination process and the final report from the Planning Inspectorate has now been received. However, the new Local Plan has yet to be formally adopted. The saved policies in the 2006 Adopted South Holland Local Plan therefore remain material. However, the new Local Plan is now considered to carry significant weight in the decision-making process.

South East Lincolnshire Local Plan (SELLP) (scheduled to be adopted March 2019)

Policy 1 - Spatial Strategy;
Policy 2 - Development Management;
Policy 3 - Design of New Development;

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

National Guidance

National Planning Policy Framework (NPPF), February 2019

Paragraph 11 - The presumption in favour of sustainable development
Paragraphs 16 & 17 - Plan Making
Section 12 - Achieving well-designed places

Planning Practice Guidance (PPG), 2014

5.0 RELEVANT PLANNING HISTORY

5.1 H18-1021-78

Residential development with provision of access off Wharf Street and Lime Street - Approved - 27 June 1979. Outline.

H18-1019-80

74 dwellings with provision of access off Wharf Street and Lime Street - Approved - 07 October 1980. Reserved Matters.

6.0 REPRESENTATIONS

6.1 Ward Councillor

Cllr CJTH Brewis - "This area of land has been controversially enclosed and has caused some concern among residents. It was part of the 'verge' adjacent the footway. I believe this application needs very close attention indeed, and would be very pleased for it to go to the full committee."

6.2 Sutton Bridge Parish Council

"1. Highways need to be content that the height of the fence is not adversely affecting visibility splays exiting junction from Nene Meadows.
2. The Parish Council believes that the ownership of the land could be disputed. The District Council should receive sufficient evidence on ownership to assure itself that the applicant has the right to erect a fence.
3. Relevant to the issue of ownership, it appears that the enclosed land includes a street light sited within it. This is attached to an electricity supply pole.
4. The Parish Council believes that this application should be considered by the full planning committee."

6.3 County Highways & SUDS Officer

No objections - "Note to Planner: Our records show that the section of grass in question adjacent to the footway was not adopted as maintainable highway by Lincolnshire County Council."

6.4 Public

Support from two local residents - It makes area safer, dogs are no longer using as a toilet and local youths are not gathering and leaving cans and glass in the area. It now looks well maintained.

Concerns raised from one local resident summarised as follows:

- Land was previously identified as public open space and visibility splay in the original planning permission, believe this now contravenes safety provisions for pedestrians and road users alike.
- Removal of open aspect at entrance to Nene Meadows significantly changes the light and open environment that make this area so attractive.

In addition the applicant submitted as a supporting document with the application a petition signed by seven local residents which stated:

"I feel that the fence on the corner of Wharf Street and Nene Meadows should stay as it does not cause any distraction and looks better than before."

7.0 MATERIAL CONSIDERATIONS

7.1 The key issues for consideration in this application are:

- Policy and Principle of Development;
- Ownership of land;
- Ownership of streetlight attached to telegraph pole.

7.2 Policy and Principle of Development

The proposed fencing required planning permission because it exceeds 1 metre in height within 2 metres of a highway. When assessed against Policy 3 of the SELLP, it is considered that the impact on the character and visual amenity of the area is negligible. The applicant considers that there are other such examples of similar means of enclosure in the vicinity and has provided photographs and their locations on a map within supporting information documents. One example is a fence on the opposite side of Nene Meadows, another immediately opposite the property to the south, with another two either side of the junction with Church Street and Wharf Street. With regard to highway safety, the County Highways & SUDS Officer has expressed no objections.

7.3 Ownership of land

7.4 A property register document from the Land Registry, dated 29 May 2018, confirms that the applicant is in full ownership of the land on which the fence is sited. Correspondence, dated 15 March 1989 under application H18-1019-80 from the District Planning Officer to the District Secretary, states in regard to a request for the land to be purchased by the then owner of 26 Wharf Street:

"The approved plans do not indicate that the area would necessarily be taken over by the District Council, as it is only shown as "Grassed Area". However, inspection of the site shows that not only has it been grassed, it has also been contoured, and a number of trees planted which are now well established. Therefore, in my view, in its present state it does form an attractive landscaped area at the entrance to this estate, in a settlement which is not over endowed with such area. If the owners of the adjoining dwelling are prepared to maintain it as it is, and a binding agreement to that effect can be entered into, I would have no objection to them taking over the maintenance, but in view of their claim that the site is used by humans defecating, I would expect them to want to put up a fence to enclose their land, and in that case I think the attractiveness of the area would be largely destroyed."

The land was not at that time sold to 26 Wharf Street, nor was ownership transferred to the District Council, albeit there had been maintenance of the land in the 1980s without a dedication agreement having been signed.

Regardless of the above comments, the site is now in the full ownership of the applicant.

7.5 Streetlight attached to telegraph pole

7.6 Supporting information from the applicant shows that the telegraph pole has not been brought

into the curtilage of the applicant by the fencing, as it was positioned within a hedge that was within the boundary of the applicant's ownership. Evidence shows the applicant has been receiving payment from Western Power for the positioning of a pole on their land. Discussions with Western Power have been made, and they are trying to move the telegraph pole to another location on the property or a site outside where they feel it would be better positioned. No timescale has been given for the proposed works.

7.7 Conclusion

7.8 There is not considered to be a material impact on the character of the surrounding area. When assessed against Policy 3 of the SELLP concerning 'Design of New Development', the proposal is considered to accord with criterions 2, 8 and 11 which concern:

2 - Distinguishing between private and public space;

8 - Crime prevention and community safety;

11 - Residential Amenity

7.9 There are other such examples of similar means of enclosure in the vicinity. It is considered that a reduction in height, or setting back of the fence, would not adequately address any of the above criteria. As per the County Highways & SUDS Officer comments there is not considered to be a material impact on highway safety. The fencing was erected to reduce incidents of antisocial behaviour and, therefore, increase the amenity of residents, in accordance with criteria contained within Policy 3 of South East Lincolnshire Local Plan, 2019.

8.0 **RECOMMENDATIONS**

8.1 Grant permission subject to the conditions set out in Section 9.0 of this report.

9.0 **CONDITIONS**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location (1:1250)
Block Plan (1:500)

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

Background papers:- Planning Application Working File

Lead Contact Officer

Name and Post: Richard Fidler , Development Manager
Telephone Number: 01775 764428
Email: rfidler@sholland.gov.uk

Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title

