

Application Number: 19/10720 Full Planning Permission

Site: 7 CHARNWOOD CLOSE, TOTTON SO40 2QB
Development: Use as residential garden land and erect fence (Retrospective)

Applicant: Miss St John

Target Date: 14/08/2019

Extension Date: 13/09/2019

Link to case file: [view online here](#)

1 SUMMARY OF THE MAIN ISSUES

The following are considered to be the main issues to be taken into account when determining this application. These, and all other relevant considerations, are set out and considered in Section 11, of this report after which a conclusion on the planning balance is reached.

- 1) Impact of the proposal on the character of the area and the street scene
- 2) Impact of the proposal on the amenity of neighbouring properties

This matter is being considered by Committee at the request of Councillor Arthur Davis

2 THE SITE

The application site. Is part of an established residential development with properties of a similar design, there are large areas of green space within this residential estate which give an open feel to the area. The frontages of properties have been designed to be open with cars and garages to the rear

3 THE PROPOSED DEVELOPMENT

The application seeks retrospective planning permission for a 1m high close board fence around the front boundary, a 2.1m high fence to the side of the property adjacent to a footpath. The side fence encloses an area of land that is currently a landscape strip, this is a change of use of land to residential garden land.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status
NFR/XX/15449/13 15 houses and garages.	19/07/1971	Granted Subject to Conditions	Decided
XX/NFR/15449/7 Residential and associated development.	25/11/1970	Granted Subject to Conditions	Decided
XX/NFR/15449/6 Roads and pedestrian ways, public open space, site for church and 2 shops, 318 housing units, 281 garages and 75 parking spaces.	11/06/1970	Granted Subject to Conditions	Decided

XX/NFR/15449/4 Spine road and surface water drainage. 07/07/1969 Granted Subject to Conditions Decided

XX/NFR/15449 Residential and associated development 05/12/1967 Granted Subject to Conditions Decided

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

Core Strategy

CS2: Design quality

The Emerging Local Plan

Policy 13:
SO3: Built Environment and Heritage

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004

Relevant Advice

National Planning Policy Framework (2019)
Chapter 12: Achieving well-designed places

7 PARISH / TOWN COUNCIL COMMENTS

Totton & Eling Town Council

The application is retrospective and aims to keep the fence which has been erected around the property. The issue comes with the impact of this fence on the open design of the front gardens and how this close boarded fence will significantly diminish this open relationship with the public areas. While there are examples scattered around the area, it remains important to retain this feature and not set a precedent. In addition recent applications have been rejected nearby for similar fences. Councillors deliberated for both sides of the debate, with some stating that as there were already plenty of fences in the area and the precedent had already been set. While others believed that lapses in planning in the past should not impact the current matter and if everyone were to have a fence such as this then the street scene and appearance of the houses in the area would be detrimentally impacted upon. There was also the further issue of the site fence which impacts the path negatively. If the land were deemed to be part of this buffer zone like that of the front then this should also be reduced in size or set back so that this relationship can continue.

RECOMMENDATION - REFUSAL, but would accept the decision reached by the District Council's Officers under their delegated powers

8 COUNCILLOR COMMENTS

- If recommended for refusal then should go before Committee

Comments in full are available on website.

9 CONSULTEE COMMENTS

The following is a summary of the representations received which can be read in full via the link set out at the head of this report.

Environmental Health Contaminated Land: no concerns

Comments in full are available on website.

10 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

2 letters of support have been received commenting that the proposal;

- Improvement to the overall area
- makes clear area of path
- own application refused - advised to plant hedge
- there are other examples of fences
- no enforcement action taken
- situation dealt with unfairly

1 letter of objection on the grounds;

- own application for close board fence refused
- everyone should be treated the same
- application for picket fence approved

11 OFFICER COMMENTS

Introduction

The main issues for consideration in the determination of this application are the impacts of enclosing the front garden and the loss of the strip of land between the existing brick wall and the footpath on the open character of the area and the street scene and whether the proposal would have an adverse impact on neighbour amenities.

Relevant Considerations

The original consent XX/NFR/15449/6 sort to achieve a development that had areas of landscape and front gardens that were not enclosed by fencing so that they created a sense of openness. Accordingly Condition 2, was attached to the permission to ensure that this planning objective was retained the condition states –

Notwithstanding the provisions of the Town and Country Planning General Development Order 1963, no building, structures or erection of any kind including walls, fences, hedges, trees, shrubs and drainage works, shall be constructed or planted on the area coloured green on the approved plan without the consent of the Local Planning Authority.

Character of the area:

There are a few historic examples where fencing has been erected. Whilst the fence to the front is only 1m in height the main character of the immediate area

and beyond remains open and consideration has been given to the harm created due to the further erosion of this front garden and the resulting change to the spatial character of this area. The fence to the side boundary is 2m in height, it does replace an existing brick wall, however the fence is placed tight along the side of the footpath. The resulting loss of a strip of land adjacent to the footpath would create an unacceptable sense of enclosure of the footpath making it feel less secure and being detrimental to users of this footpath. The front and side fence erode the spatial character of the immediate area and are prominent within the street scene.

Neighbour amenity

The fence to the front is low and would not overly affect neighbour amenity, the side fence is higher but there are no neighbours on this side of the dwelling.

Comments received

The main issue raised between supporters and objectors is that the Council should be fair in their decisions, previous applications for close board fences in this area have been refused. The Estate was designed as an open plan estate with the front gardens of individual properties playing a significant role in creating this sense of open space. Throughout the estate there are areas of land that are not part of the gardens of properties all of which play a role in the open character of the estate. The Condition on the original consent was imposed in order to retain these features.

12 CONCLUSION ON THE PLANNING BALANCE

The application has been considered against all relevant material considerations including the development plan, relevant legislation, policy guidance, government advice, and the views of consultees and interested 3rd parties. Having taken all these matters into account, it is considered that the loss of open space and the enclosure of the front garden in the way proposed would detract from the open plan nature of the estate leading to a detrimental impact on the character of the area.

13 OTHER CONSIDERATIONS

Crime and Disorder

No relevant implications

Local Finance

Local financial considerations are not material to the decision on this application.

Human Rights

In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can

only be safeguarded by the refusal of permission.

Equality

The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular the Committee must pay due regard to the need to:

- (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

14. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. By reason of the loss of the landscape strip adjacent to the footpath through its change of use to enclosed garden and the height and close proximity of the 2.1m fence to the footpath the fence forms an intrusive and overbearing development resulting in an unacceptable sense of enclosure of the footpath to the detriment of its function and to users of this footpath. , For these reasons the development is contrary to Policy CS2 of the Core strategy for the New Forest outside the National Park and Chapter 12 of the National Planning Policy Framework.
2. The location and solid form of the front fence which is visible within the wider street scene, results in a harsh boundary treatment that is visually intrusive and out of keeping within the street scene, detracting from and erodes the predominantly open character of the area, for these reasons the development is contrary to Policy CS2 of the Core strategy for the New Forest outside the National Park and Chapter 12 of the National Planning Policy Framework.

Notes for inclusion on certificate:

1. In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

Further Information:

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New Forest

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PLANNING COMMITTEE

September 2019

Item No: 3e

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Scale 1:1250

N.B. If printing this plan from the internet, it will not be to scale.