

Report to: Planning Committee
Date: 23rd February 2021
Application No: 200986
Location: 1 Ridgelands Close, Eastbourne, BN20 8EP UG
Proposal: Section 73a part retrospective application for 1.8 m close board fence
Applicant : Mr Jonathan Mitchell
Ward: Upperton
Deadlines: **Decision Due Date:** 18th February 2021
Neighbour Con. Expiry: 11th February 2021
Recommendation: Approve with conditions
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Map Location:



1. **Executive Summary**

- 1.1 The proposed scheme has reduced the height of the fence and, in doing so, overcome the reason for refusal of the previous scheme (200444) by way of softening the visual impact of the fence and providing consistency with surrounding boundary treatment.
- 1.2 Scheme is recommended for approval subject to conditions.

2. **Relevant Planning Policies**

2.1 National Planning Policy Framework 2019

- 2. Achieving sustainable development.
- 4. Decision making.
- 8. Promoting healthy and safe communities.
- 12. Achieving well-designed places.
- 15. Conserving and enhancing the natural environment;

2.2 Eastbourne Core Strategy Local Plan 2006-2027

- B2: Creating Sustainable Neighbourhoods.
- C10: Summerdown & Saffrons Neighbourhood Policy.
- D1: Sustainable Development.
- D9: Natural Environment.
- D10: Historic Environment.
- D10A: Design;

2.3 Eastbourne Core Strategy Local Plan 2001-2011:

- UHT1: Design of New Development
- UHT4: Visual Amenity
- UHT6: Tree Planting
- UHT7: Landscaping
- HO1& 2: Residential Development Within the Existing Built-up Area
- HO20: Residential Amenity
- NE23: Nature Conservation of Other Sites
- NE28 Environment Amenity

3. **Site Description**

- 3.1 An approx. 2.2-metre-high close board fence is currently in-situ on the southern site boundary which flanks Upland Road. The fence has partially collapsed following storm damage inflicted at the end of last year.

- 3.2 Upland Road is a residential road flanked, on the southern side, by a linear arrangement of two-storey dwellings which are set back from the road with low brick walls to the front. The northern side of this part of the road is less developed and is bordered by mature trees and hedging to the rear of properties on Ridgeland Close and green open and wooded areas which extend to the west, towards the South Downs National Park. However, there is more formal boundary treatment in place in the form of boundary walls fronting parts of Upland Road to the east of the site.
- 3.3 Prior to the erection of the fence subject of this application, a chain link fence was in place along the boundary.

4. **Relevant Planning History**

- 4.1 200219 - Proposed single storey extension to be used ancillary to the main dwelling - Approved conditionally 29th May 2020.
- 4.2 200444 - Section 73a retrospective application replacement fence to rear/side boundary – Refused 8th October 2020 No relevant planning history for the application site.

5. **Proposed Development**

- 5.1 The proposed development involves replacing the existing partially collapsed approx. 2.2-metre-high fence with a timber close board fence of 1.8 metres height. The 2.2-metre-high fence had been unlawfully erected and had been refused permission for retention under application 200444. The proposed fence would run along the entire southern boundary of the residential property at 1 Ridgeland Close, which flanks Upland Road.

6. **Consultations**

6.1 External

6.2 ESCC Highways

6.2.1 Refer to standing advice.

6.2.2 OFFICER COMMENT: Concerns that the 2.2-metre-high fence encroached the highway had been raised during the determination of the previous application 200444. These concerns were investigated by ESCC Highways who noted a minor encroachment but did not consider it necessary to take further action. An informative will be attached to any approval given to advise the applicant that the fence should be wholly positioned on their land as per the submitted plans.

7. **Neighbour Representations**

- 7.1 12 letters of objection have been received regarding the application. Objections are lodged on the following grounds:
- Out of keeping with neighbouring properties which have brick walls or hedges.

- Results in an unattractive outlook for neighbours and looks like a temporary barricade.
- Contrary to advice contained within the East Sussex Designing out Crime Supplementary Planning Guidance.
- Contrary to the principals of the Eastbourne Borough Plan.
- Fences adjacent to the highway should be limited to 1 metre height.
- Has resulted in loss of greenery.
- Does not overcome reasons for refusal of previous application.
- The fence is unsafe as demonstrated when parts of it were blown down.
- Creates oppressive environment and impacts negatively on South Downs National Park.
- Should be replaced with hedging.
- Fence should be no higher than neighbouring properties (1.5 to 1.6 metres).
- Is not permitted development.
- Does not provide privacy as no views were available into the site anyway.
- Overbearing appearance is worsened at night due to light from streetlight being reflected.
- Contrary to the proposed Environmental Bill.
- Has resulted in loss of habitat.
- There is a precedent as permission for a fence was denied for a house on the corner between Summerdown Road and Compton Drive and a hedge planted instead.

7.2 Officer Response:

- 7.3 Matters relating to impact upon visual, environmental, and residential amenity will be addressed in the main body of this report. With regards Secured by Design, guidance recommends 1.8-metre-high fencing on side and rear boundaries of properties, see para. 10.5 of the Secured By Design Guide for Homes 2019 which states 'Vulnerable areas, such as exposed side and rear gardens, need more robust defensive barriers by using walls or fencing to a minimum height of 1.8m.' Lower, permeable fencing is encouraged where surveillance would be required, such as to the front of a dwelling or on a street with no overlooking from other properties, which is not the case for Upland Road.
- 7.4 Permitted Development rights (under Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015) cover works that can be carried out without the need to obtain planning permission. They do not prohibit development outside of the

thresholds set; they only require that planning permission be granted for any such works.

7.5 It should be noted that some comments received refer to the impact of the existing fence. The proposed development would replace this fence.

7.6 Eastbourne Society: A letter of objection has been submitted by the Eastbourne Society. A summary of comments is provided below:-

- The fence has removed greenery and obscures the green and natural environment.
- The site is exposed and susceptible to gales which would damage the fence and result in a hazard.

8. **Appraisal**

8.1 Principle of Development

8.1.1 The site is located within the settlement boundary of Eastbourne, where the general principle of development is acceptable.

8.1.2 The Revised National Planning Policy Framework supports sustainable development, which balances economic, social, and environmental objectives as defined in para. 8.

8.1.3 The application will therefore be assessed against these objectives and relevant supplementary planning policies contained within the local development plan.

8.2 Impact of the proposed development on amenity of adjoining occupiers and the surrounding area:

8.2.1 The proposed fence would demarcate the rear boundary of 1 Ridgeland Close. The boundary was originally maintained by an approx. 1.6-metre-high wire mesh fence behind which was mixed hedging, presumably planted as a form of boundary treatment, with mature trees set further back. A 2.2-metre-high timber fence was unlawfully erected in 2020 and was refused planning permission as it was considered to be excessive height and, as a consequence, to represent a stark and disruptive feature within the street scene.

8.2.2 The proposed scheme seeks approval for a 1.8-metre-high fence. Whilst this form of boundary treatment is not frequently seen on Upland Road, this is primarily due to most boundaries flanking the road being those to the front of properties where high fencing is actively discouraged in order to ensure dwellings engage with the street scene. A 1.8 metre high solid fence is the recommended form of boundary treatment for side and rear boundaries of domestic properties as per para. 10.5 of the Secured by Design Guide for Homes 2019 which states, 'vulnerable areas, such as exposed side and rear gardens, need more robust defensive barriers by using walls or fencing to a minimum height of 1.8m.'

8.2.3 Notwithstanding this, impact on visual amenity is a central planning consideration and is not overridden by security needs. It is noted that

the applicant could legitimately form an approx. 1.6-metre-high close board fence along the rear site boundary as the existing concrete posts supporting the wire mesh fence have been retained. This would represent an alteration/improvement allowable under Schedule 2, Part 2, Class A of The Town, and Country Planning (General Permitted Development) (England) Order 2015.

- 8.2.4 Whilst the 2.2 metre high fence previously erected was considered to be of excessive height and unduly imposing, the proposed 1.8 metre high fence would be consistent with the height of fencing on the corner of Ridgeland Close and would therefore visually assimilate with this existing feature, addressing concerns of a disruption in the rhythm of the street scene raised in the refusal of application 200444. It is also considered that the timber fencing will weather in over time, appearing as a more subdued visual feature and, in some way, complementing the landscaping to the rear.
- 8.2.5 The previous reason for refusal also raised the issue of the verdant nature of the site and wider street scene being negatively affected. It is noted that the applicant has removed vegetation from the rear of the site. Trees removed were not subject of any Tree Preservation Order and that the hedging and shrubbery immediately adjacent to the boundary would not have been protected even if such protection were in place. Several mature trees remain in position to the rear of the site.
- 8.2.6 It is considered that a fence of 1.8 metres height would allow less restrictive views of the retained tree canopy when seen from street level. It is also noted that the patio area formed to the rear of the fence includes planters which could be used to accommodate ornamental trees that would be visible above the fence line and would augment with existing trees to provide a layered green canopy. It is therefore considered that, with a suitable planting condition in place, a verdant character can be maintained. Planting could also consist of native species that provide enhanced biodiversity value.
- 8.2.7 It is therefore considered that the proposed fence would integrate with the existing street scene, would not appear overly dominant or oppressive and that a green buffer to the rear could be maintained and enhanced by a suitable planting programme. As such, it is considered the proposed development complies with saved policies UHT1, UHT4 and NE28 of the Eastbourne Borough Plan and policies D9 and D10a of the Eastbourne Core Strategy.

8.3 Highway Safety

- 8.3.1 One of the reasons behind the general limiting of boundary treatment height alongside a highway is in order to prevent visibility splays at junctions being compromised, resulting in reduced views of passing traffic and pedestrians and, therefore, a highway hazard. Para. 3.4.8 of the ESCC Highways Minor Planning Application Guidance states 'obstructions within the visibility splay should be no taller than

600mm where there is a footway adjacent to the site and no taller than 1050mm where the access crosses over a verge.' The proposed fence is set back from the main carriageway and flanks a straight section of road. As such, visibility splays are retained at the junction between Upland Road and Ridgeland Close.

- 8.3.2 It is noted that the previously erected fence partially collapsed during high winds and this has led to safety concerns being raised in letters of objection. It is not considered that this would be reasonable grounds for refusing a planning application. It is noted that ESCC Highways have not objected or raised concerns over pedestrian safety and the standing advice referred to in their comments does not prohibit 1.8-metre-high fencing adjacent to the highway. It is the responsibility of the applicant to ensure the fence is constructed and maintained to an acceptable standard as they would potentially be liable for any damage or injury resulting from a collapse of the fence.
- 8.3.3 It is therefore considered that the proposed fence would not compromise highway safety and, as such, accords with paras 108 and 109 of the Revised National Planning Policy Framework.

8.4 Neighbour Amenity

- 8.4.1 The proposed fence is not considered to be of excessive height and is positioned approx. 17 metres from the nearest windows at neighbouring properties facing towards the site. It is considered that this is a sufficient distance to prevent any unacceptable overbearing or overshadowing impact.
- 8.4.2 It is noted that objections include reference to light from the existing streetlamp being reflected and presenting a nuisance. The streetlight is not angled directly towards the fence and timber does not have significant reflective properties. Considering this and the distance maintained between neighbouring properties it is not considered that light reflection would be at a level that would cause harm to the amenities of neighbouring residents or sky glow that would compromise the dark sky reserve status of the nearby South Downs National Park.
- 8.4.3 It is therefore considered that the proposed development complies with saved policies HO20 and NE28 of the Eastbourne Borough Plan and para. 180 of the Revised National Planning Policy Framework.

9. **Human Rights Implications**

- 9.1 The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

10. **Recommendation**

10.1 Grant planning permission subject to the following conditions:

10.2 Time Limit - The development hereby permitted shall be begun before the expiration of three years from the date of permission.

Reason: To comply with Sections 91 and 92 of the Town and County Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004). Approved Plans

10.3 Approved Plans - The development hereby permitted shall be carried out in accordance with the following approved drawings:

- 1:1250 Location Plan.
- 1:500 Block Plan.
- Drawing Issue 2 – Rear Fence.

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

10.4 Landscaping - A planting scheme to include provision of low level trees to the rear of the fence hereby shall be submitted to and approved by the Local Planning Authority and all such work shall then be fully implemented in the first planting season, following the erection of the fence. Any plants or species which within a period of 5 years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to preserve and enhance the verdant nature of the street scene and to provide an ecological enhancement in accordance with saved policy UHT7 of the Eastbourne Borough Plan, policy D9 of the Eastbourne Core Strategy and section 16 of the Revised National Planning Policy Framework.

11. **Appeal**

11.1 Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be written representations.

12. **Background Papers**

12.1 None.