

23/00376/FUL

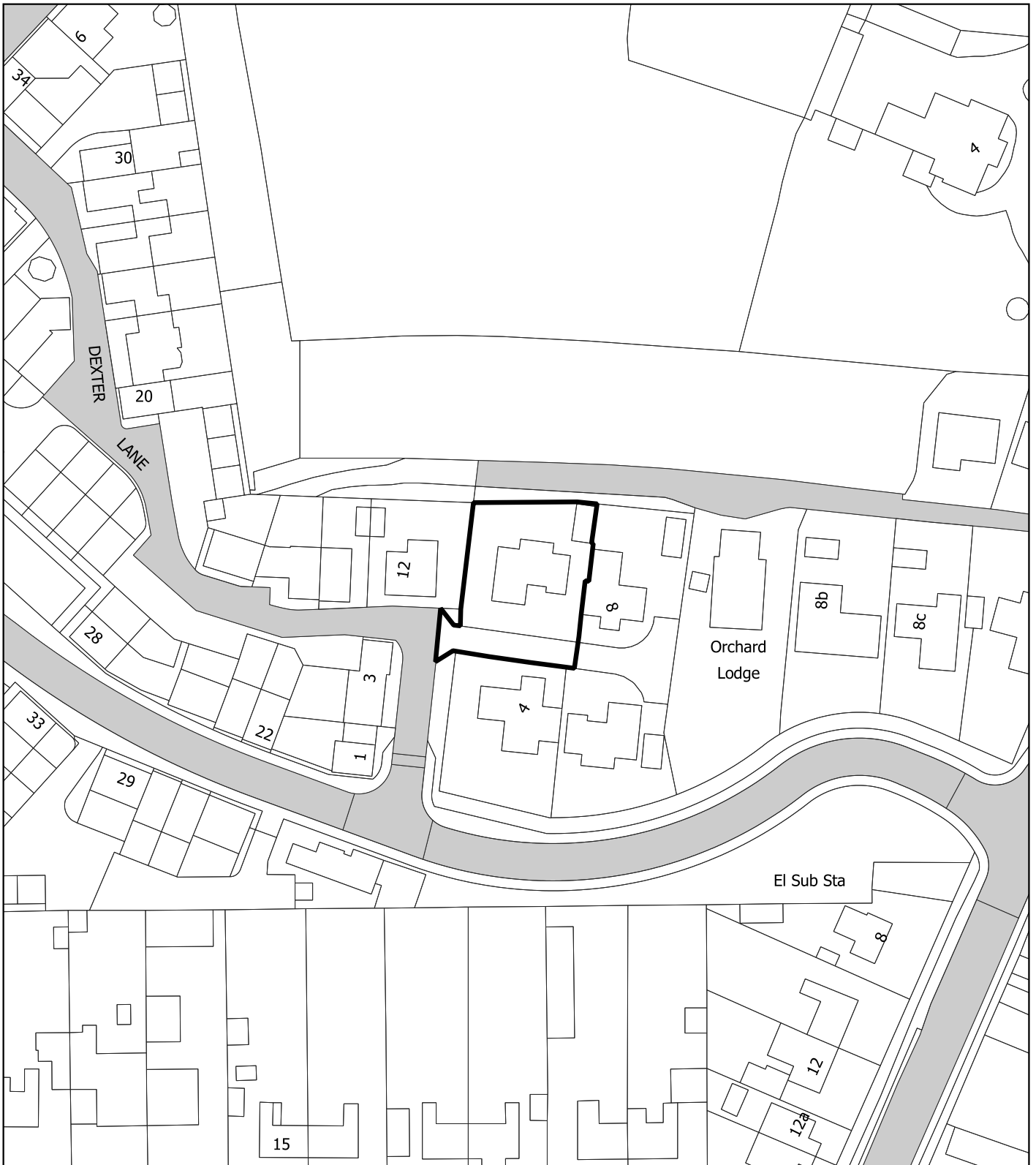
10 Dexter Lane
Littleport
Cambridgeshire
CB6 1GE

Front boundary treatment- retrospective

To view all of the public access documents relating to this application please use the following web address or scan the QR code:

<http://pa.eastcambs.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RS16FIGGJHM00>





23/00376/FUL

10 Dexter Lane
Littleport



East Cambridgeshire
District Council

Date: 07/06/2023
Scale: 1:1,000



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TITLE: 23/00376/FUL

Committee: Planning Committee

Date: 21 June 2023

Author: Senior Planning Officer

Report No: Y13

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Site Address: 10 Dexter Lane, Littleport, Cambridgeshire, CB6 1GE

Proposal: Front boundary treatment- retrospective

Applicant: Mr Ben Davis

Parish: Littleport

Ward: Littleport

Ward Councillor/s: Christine Ambrose-Smith
Martin Goodearl
David Miller

Date Received: 24 March 2023

Expiry Date: 23 June 2023

1.0 RECOMMENDATION

1.1 Members are recommended to REFUSE the application for the following reason:

1. The fence and gates by virtue of their scale, design and location are a visually intrusive and uncharacteristic feature for a front boundary within the immediate street scene. In addition, the fence and gates fail to create a positive, complementary relationship with the character of the street scene but rather cause harm to the open visual amenity of area contrary to Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015.

2.0 SUMMARY OF APPLICATION

2.1 The application seeks retrospective planning permission for a 1.2-metre (c.3.9ft) fence and gates along the front boundary of the application site, adjacent to the highway and shared internal access road serving the cul-de-sac of No.4-10 Dexter

Lane, of which the application site forms a part. The fence comprises close boarded timber fence in a vertical orientation with a timber kickboard. The gates comprise timber double bar sliding gates.

- 2.2 The current application was called into planning committee by Councillor Christine Ambrose-Smith for the following reason provided: *“Since it was called in originally, I feel it should come back to Planning Committee for a decision.”*
- 2.3 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council’s Public Access online service, via the following link <http://pa.eastcambs.gov.uk/online-applications/>.

3.0 PLANNING HISTORY

- 3.1 Relevant planning history to the application is provided below:

22/01474/FUL

Front boundary treatment- retrospective

Refused

9 March 2023

18/00892/FUL

To erect 4 detached 2 storey dwellings with garages

Approved

20 September 2018

4.0 THE SITE AND ITS ENVIRONMENT

- 4.1 The application site comprises of a two storey detached dwelling that is located within the policy defined settlement boundary of Littleport. The site is not within a Conservation Area nor is the building itself listed.
- 4.2 The host dwelling forms part of a new residential development within Littleport. The host dwelling was constructed using a light coloured buff brick, slates and grey UPVC windows.
- 4.3 The host dwelling has a rear garden, front garden and driveway to the side of the dwelling. The dwelling fronts the road but is set back from the road by a front driveway and front garden.
- 4.4 Within the immediate vicinity of the site, the surrounding dwellings have large open front gardens that set the dwellings back from the road and create an open character. Whilst it is noted that there are examples of close boarded fencing within the immediate vicinity of the site, there are no examples of close board fencing along the front boundary treatments.

5.0 **RESPONSES FROM CONSULTEES**

5.1 Responses were received from the following consultees [LIST] and these are summarised below. The full responses are available on the Council's web site.

Local Highways Authority - 17 April 2023

States: "Following a careful review of the documents provided to the Local Highway Authority as part of the above planning application, no significant adverse effect upon the public highway should result from this proposal, should it gain benefit of planning permission as this section of Dexter Lane does not form part of the public highway."

Cllr. Christine Ambrose-Smith (Ward Councillor) – 11 May 2023

States: "I was rather under the impression that an accommodation had been reached between the applicant and the Planning Department, and that the applicant agreed to lower the fence in order to meet the requirements. I further understood that a hedge was to be planted on one side or the other of the fence in order to give a more natural appearance.

I note that concern is expressed regarding the trees planted in the lawn, by others nearby. Perhaps a view from the Trees Officer might be helpful.

I have not visited the site recently but will endeavour to do so over the weekend.

Since it was called in originally, I feel it should come back to Planning Committee for a decision."

ECDC Trees Team - 23 May 2023

States: "No tree related objections please condition that the submitted soft landscaping scheme is complied with."

Parish - No Comments Received

Enforcement Section - No Comments Received

5.2 A site notice was displayed near the site on 6th April 2023.

5.3 Neighbours – Four neighbouring properties were notified and the three responses received are summarised below. A full copy of the responses are available on the Council's website.

- Concerns regarding the root systems of the proposed trees and hedge would affect the groundwork, private road and drainage systems;
- The addition of trees behind the fence does not conform with the previous planning decision;
- The fence remains an eye sore;
- The fence is worse than the first version submitted;
- Applicant has not made any attempt to communicate with neighbours;
- Fence is visually intrusive and uncharacteristic, and fail to create a positive, complementary relationship with the character of the street-scene;

6.0 THE PLANNING POLICY CONTEXT

6.1 East Cambridgeshire Local Plan 2015

GROWTH 2	Locational strategy
GROWTH 5	Presumption in favour of sustainable development
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 4	Energy and water efficiency and renewable energy in construction
ENV 7	Biodiversity and geology
COM 7	Transport impact
COM 8	Parking provision

6.2 Supplementary Planning Documents

Design Guide
Natural Environment
Climate Change

6.3 National Planning Policy Framework 2021

- 2 Achieving sustainable development
- 4 Decision-making
- 9 Promoting sustainable transport
- 12 Achieving well-designed places
- 14 Meeting the challenge of climate change, flooding and coastal change
- 15 Conserving and enhancing the natural environment

7.0 PLANNING COMMENTS

7.1 The main material considerations when determining this application are:

- Visual amenity
- Residential amenity
- Highways safety and parking
- Others material matters

7.2 Visual Amenity

7.2.1 Policy ENV1 of the East Cambridgeshire Local Plan, 2015 states that development proposals should ensure they provide a complementary relationship with the existing development. Policy ENV2 states the location, layout, massing, materials and colour of buildings relate sympathetically to the surrounding area.

7.2.2 The National Planning Policy Framework 2021 Paragraphs 126 and 134 require the creation of high quality, beautiful and sustainable buildings and places. They also state that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

- 7.2.3 The host dwelling was constructed within a cluster of 4 dwellings under reference number 18/00892/FUL. The retrospective fence does not form part of the approved development proposals, which specifically dealt with boundary treatments under Condition 11 imposed upon this consent.
- 7.2.4 These dwellings were constructed with large open front gardens and with no front boundary treatment to ensure that the dwellings were set back from the private road. This ensured that there was an open character within this cluster. The plots in this cluster are large spacious plots with space between the dwellings which further contributes to the open character of this cluster.
- 7.2.5 Within the wider area of the site, the dwellings front the highway with small front gardens and have no front boundary treatment. The open small front gardens are considered to be an established pattern of development within this area.
- 7.2.6 It is acknowledged that the proposals represent an amended re-submission of an earlier (refused) application for a part 1.8-metre and part 1.2-metre front boundary fence and gates (LPA Ref. 22/01474/FUL – **Appendix 1**). Of the original proposal, the proposed development now seeks to retain 1.2-metre close boarded front boundary treatment and gate, removing the 1.8-metre section. The revised proposals also include tree and hedge planting to the rear of the retrospective fencing.
- 7.2.7 With regard to the proposed revised height of the boundary treatment, it is acknowledged that this would exceed the ‘permitted development’ baseline of 1-metre by c.20-centimetres.
- 7.2.8 Members are reminded that ‘permitted development’ rights are established at the national level, and represent a ‘light-touch’ and far less prescriptive approach to development in comparison to planning applications, over which the Local Planning Authority has very little to no control. However, Members are also reminded that the existence of permitted development rights does not necessarily guarantee the highest quality of development.
- 7.2.9 Notwithstanding, the application proposals are not considered to be permitted development, and this warrants their consideration as part of a planning application, under which the merits of the proposed development can and should be considered.
- 7.2.10 It is fully acknowledged therefore that Applicants could have erected a 1-metre close boarded fence and gates along this boundary as their realistic fall-back position. Whilst the Local Planning Authority do not consider that this represents an appropriate or visually acceptable boundary in this location, it is simply the case that the Local Planning Authority have no control over a fence of this height or construction.
- 7.2.11 However, it is considered that the proposed fence and gates further worsen this visual harm. The fence as proposed is considered to be an alien feature within this street scene, and by enclosing the application property erodes the open character of this cluster of dwellings and the wider open character of this area.

- 7.2.12 There are no other examples of boundary treatments of this height or construction forward of the front elevation of dwellings along Dexter Lane. Whilst there are examples of lower level close boarded fences, where these are evident they form side boundaries. It is only the backs of dwellings and their rear gardens that are enclosed by close boarded fencing or brick walls along Dexter Lane, and this is considered to further evidence why the proposed boundary treatments and fencing are incongruous with the immediate and wider character and appearance of the area.
- 7.2.13 Whilst the Applicant has suggested that the fencing is required for safety purposes to enclose the garden to the dwelling, it is relevant that the application property benefits from a large private and enclosed rear garden that is considered to provide a safe and enclosed space for occupiers of the dwelling, including children.
- 7.2.14 It is also acknowledged that planting has been proposed behind the proposed fencing. Whilst this planting is considered to be a contribution to the street-scene in its own right, it's siting behind the fencing is not considered to soften the very solid and expansive stretch of fencing within the street-scene. It must also be acknowledged that, due to the nature of trees and hedges as living organisms susceptible to disease and die-back, they cannot be relied upon to make otherwise unacceptable development acceptable.
- 7.2.15 In conclusion, the adopted policies of the Local Plan make clear that development proposals should seek to provide a complementary relationship with existing development, and the National Planning Policy Framework is clear that schemes of a poor design should be refused. Whilst amendments have been made, it is considered that the fence would still be an intrusive, contrived and ultimately unacceptable addition within this street scene and would fail to be in keeping with the open character of the area. Therefore this fails to meet the requirements set out in Policies ENV1 and ENV2.
- 7.2.16 For the reasons set out above, it is not considered that there are any material considerations that would suggest the harm arising from the proposed development would be outweighed and that the proposed development should therefore be allowed, or that Members should reach a different conclusion to that under LPA Re. 21/01474/FUL.

7.3 Residential Amenity

- 7.3.1 Policy ENV2 of the East Cambridgeshire Local Plan 2015 requires proposals to ensure that there are no significantly detrimental effects on the residential amenity of nearby occupiers. Additionally, paragraph 130(f) of the NPPF requires proposals to ensure that they create safe, inclusive and accessible development which promotes health and wellbeing and provides a high standard of amenity for existing and future users.
- 7.3.2 The fence, gates and proposed landscaping are located along the front boundary of the host dwelling. Given the nature and siting of the fence and gates, it is not considered that they have an adverse impact on neighbouring amenity by virtue of loss of light, loss of privacy, overshadowing, overbearing or overlooking. Therefore,

the development is considered to comply with policy ENV2 in respect of the impact on residential amenity.

7.4 Highway safety and parking

7.4.1 Policy COM7 states that proposed development should provide safe and convenient access to the highway network. Policy COM8 states that each dwelling should have a minimum of 2 parking spaces.

7.4.2 Due to the nature of the development, the Local Highway Authority were consulted on the application. Comments were received stating that the proposed fence and gates are on a private street and they are therefore unlikely to impact upon the public highway. Therefore, the Local Highway Authority have no objections as the road is a private street.

7.4.3 The proposed fence and gates do not impact the existing parking provisions for the host dwelling and the host dwelling still benefits from two parking spaces.

7.4.4 Therefore, it is considered that the proposed development complies with policies COM7 and COM8.

7.5 Other Material Matters

Neighbour Comments

7.5.1 Several neighbour comments were received by the Local Planning authority that raised concerns with the retrospective development and its impact upon the street-scene, as well as the impact of the proposed trees and hedges upon the drainage network and private road infrastructure within the site.

7.5.2 With regard to the visual implications of the retrospective proposals, it is considered these matters have been adequately addressed elsewhere within this report.

7.5.3 It is relevant that the Trees Officer was consulted following concerns raised by residents. The Trees Officer has not raised any objections to the proposals, subject to the imposition of a condition securing soft landscaping.

7.6 Planning Balance

7.6.1 The development fails to comply with policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015. The proposal has a detrimental impact upon the character of the area and the appearance of the street scene. This harm has been balanced against the stated need to provide a secure garden for children and pets. It is considered that alternative, less harmful fencing could be erected elsewhere on the site to provide secure garden without resulting in harm to visual amenity. The need for security is not considered to outweigh the visual harm caused by the proposal.

8.0 Appendices

- 8.1 Appendix 1 – Approved Planning Committee Minutes of the 1st March 2023 Committee for LPA Ref. 22/01474/FUL (Agenda Item 9)

Background Documents

23/00376/FUL

22/01474/FUL

18/00892/FUL

National Planning Policy Framework -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

East Cambridgeshire Local Plan 2015 -

<http://www.eastcambs.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover.pdf>

East Cambridgeshire Supplementary Planning Documents

[Supplementary Planning Documents | East Cambridgeshire District Council \(eastcambs.gov.uk\)](#)

It was resolved unanimously:

That planning application ref 22/01427/OUT be APPROVED subject to the recommended conditions detailed in Appendix 1 of the Officer's report together with an additional condition restricting the two dwellings to being single-storey.

It was further resolved unanimously:

That authority be delegated to the Planning Manager to draft the additional condition regarding single-storey dwellings.

80. 22/01474/FUL 10 DEXTER LANE LITTLEPORT

Toni Hylton, Planning Team Leader presented a report (X164, previously circulated) on behalf of the Case Officer. The report recommended refusal of a retrospective application seeking permission for a fence and gates around the front boundary of the site, adjacent to the highway.

Members were shown a location plan and aerial photograph together with elevations and various site photographs. The fence was 1.8m tall in part, stepping down to 1.2m closer to the automated 5-bar sliding gate.

The main considerations for the application were deemed to be:

- **Visual and residential amenity** – the street scene in the immediate and wider vicinity of the site was open frontages that set the dwellings back from the highway. The proposed fence would enclose the application site and erode the character of the area by being an incongruous feature. Photographs from various positions in Dexter Lane showed the open nature with all plots apart from the application site having no fencing, or fencing in line with the house to retain the open frontage, or an open metal fence rather than the closeboard fencing of the application. Members' attention was drawn to two recent appeals won by the Council regarding fencing that had been refused permission on the grounds of its impact on the street scene.
- **Highways safety and parking provisions** – the Local Highways Authority had stated that two parking spaces would be retained and an acceptable visibility splay could be achieved. Therefore, in highways terms the application was considered to be acceptable.

In summary, the fence and gates were considered to be visually intrusive and an uncharacteristic boundary feature due to their scale, design and location. Rather than complementing the character of the street scene they caused harm to the open visual amenity of the area, contrary to policies ENV1 and ENV2 of the Local Plan 2015. The application was therefore recommended for refusal.

On the invitation of the Chairman, the Senior Democratic Services Officer read aloud a statement from the applicant, Ben Davis, explaining that during the purchase of their property in late 2020 they had been assured by the developer that fencing to the front of the property would be allowed. A letter dated 31st August 2020 was provided to that effect. He emphasised that the fence was a sufficient distance from the title boundary (the centre line of the private road), did not cause pedestrian or traffic issues, was in keeping with the height and style of much of the

existing fencing in the locality, did not cause loss of light or other impact to neighbouring properties, and ensured security for the property and his young child. He requested that if permission was not granted for the existing design, that a 1.2m height fence for the full width of the plot should be permitted instead. (Members had been provided with a copy of the statement and the accompanying letter dated 31st August 2020.)

The Chairman then invited Cllr D Ambrose Smith, Ward Member, to address the Committee. Cllr D Ambrose Smith highlighted various points close to the application site that had similar fencing, and reminded Members that the Local Highways Authority had found there to be no public safety impact. He asked Members to consider what harm would be caused by permitting the fence and gate to remain.

Responding to a request from Cllr Brown to clarify his position, Cllr D Ambrose Smith confirmed that in his opinion the application should be approved, contrary to the Case Officer's recommendation.

5:05pm Cllr D Ambrose Smith left the meeting for the remainder of this item.

The Chairman invited further comments from the Planning Team Leader, followed by questions from Members.

The Planning Team Leader addressed the Ward Member's open question about harm by showing a photograph of Dexter Lane and stating that if the application was to be permitted then the Authority would also need to permit the equivalent fencing on all of the other plots.

Cllr Hunt asked how the application had come about, and was informed that, as part of an enforcement case, the applicants had enquired about the likelihood of being granted retrospective planning permission. They had been informed that it was unlikely, and the Case Officer had tried to find a compromise position such as setting the fencing back from the highway in line with the building, or reducing the height, but the applicants had declined to make any changes.

Cllr Trapp queried whether or not the property's deeds permitted a fence, and highlighted that the letter provided earlier by the applicant was from the builder rather than a solicitor. The Planning Team Leader explained that Officers had been informed that the deeds said fences were not allowed, but reminded Members that aspect was not a planning matter.

Cllr Wilson asked whether he had understood correctly that, in general, fences could be constructed up to 1m high to the front of a property or 2m to the sides. The Planning Team Leader explained that a general permitted development order would allow that, subject to any specifications in the deeds, which would enable a front boundary fence of 1m or less but would not allow 1.8m as constructed. Additionally, the automated gate was 1.2m high, which could be problematic for attempts to modify the existing arrangement.

Responding to a query from Cllr C Ambrose Smith the Planning Team Leader stated that hedging could potentially be an acceptable alternative, but Members could only decide on the application as submitted.

The Chairman then opened the debate. Cllr Trapp proposed the Officer's recommendation for refusal, seconded by Cllr Jones.

Cllr Brown stated that he would abstain since it was a subjective matter on which he did not have a strong opinion. He did not consider that there would be harm, but could appreciate the Officer's viewpoint.

Cllr Wilson commented that there were other fences in the vicinity, and highlighted one at the end of the road and a shorter one on the right-hand side. He considered 1.8m to be high but also recognised that it was a matter of opinion as to whether a fence was attractive or not.

It was resolved with 4 votes in favour, 2 votes against and 1 abstention:

That planning application ref 22/01474/FUL be REFUSED for the reasons detailed in paragraph 1.1 of the Officer's report.

5:16pm Cllr D Ambrose Smith returned to the meeting.

81. PLANNING PERFORMANCE REPORT – JANUARY 2023

Simon Ellis, Planning Manager, presented a report (X165, previously circulated) summarising the performance of the Planning Department in January 2023. He corrected a typographical error in the final paragraph of page 1 (“...number received during 2024 **2022**...”) and stated that an increase in the number of applications received during the spring was anticipated as seen in the previous year. He explained that the reporting of the Determinations was being reviewed since the figures did not currently show when extensions of time had been granted.

Cllr Brown asked for an explanation of decision level “NA” in the “Appeals Decided” table on page 2. Upon being told that it referred to an appeal on the grounds of non-determination, he suggested that “ND” be used in future.

The Chairman thanked the Planning Department for their good work under pressure.

It was resolved:

That the Planning Performance Report for January 2023 be noted.

The meeting concluded at 5:20pm.

Chairman:.....

Date:.....