
Delegated report Officer: Christina Farrer

Application ref. DMPA/2019/0880

The erection of a 2 metre high fence at 9 COPSE RISE, MIDWAY, SWADLINCOTE, DE11 7NG

Valid date: 16/07/2019

Consults expired: 03/09/2019

EIA development?

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

None relevant.

Responses to consultations and publicity

No responses or comments received.

Relevant policy, guidance and/or legislation

The relevant Development Plan Policies are:

- 2016 Local Plan Part 1: S2, SD1, BNE1, INF2
- 2017 Local Plan Part 2: H27, BNE7

The relevant local guidance is:

- Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Planning considerations

Taking into account of the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- The visual amenities of the area;
- Amenity of neighbours;
- Parking and highway safety; and
- Impact on existing trees and hedges

Planning assessment

Copse Rise off Hay Wain Lane is a cul-de-sac serving around 15 dwellings. Whilst Hay Wain Road has a dedicated footway for pedestrians, this terminates a few metres into Copse Rise. Along Copse Rise the carriageway is a shared surface for vehicles and pedestrians. Dwellings are set back from the carriageway (by 5m plus) and the intervening land is generally read as front and side garden land, albeit a 2m approx. strip of land is retained by the Highway Authority. This is generally grassed/landscaped within access crossings to the dwellings.

The estate consists primarily of detached dwellings, which are relatively well spaced for an estate development. The front gardens are landscaped including some boundary hedges and there is a general lack of fencing and walling including none along boundary with the highway strip (other than some very low wicket type fencing).

No 9 is a detached dwelling sited with its front elevation at 90 degrees to the road. Its eastern side gable is roughly parallel to the carriageway. There is a gap of around 5m between this side gable and the carriageway edge, this gap being 3.3m to the grassed highway strip where there is a low hedge on No.9's side. The grassed highway land is shown as 1.7m wide on the submitted 1:200 site plan.

The dwelling has a side boundary wall with inset fence panels which separates the side garden area from the property's private rear garden. This boundary treatment is around 1.6m closer to the carriageway edge than the dwelling's side gable. The brickwork matches the bricks of No.9. Shrubs are positioned between the wall/fence panels and the low hedge inset from the highway land boundary. Part of the land between the dwelling's side gable and the low hedge is being used for the parking of a vehicle currently.

Planning permission is sought to erect a 2m high fence along the plot's boundary with the highway land starting level with the dwelling's front elevation and terminating close to the plot's rear boundary, with an angled return proposed at this point. The fencing would replace the existing low hedge and be 1.7m from the edge of the surfaced carriageway (i.e. excluding just the grassed area owned by the Highway Authority). The proposed fencing would consist of close boarded timber panels (vertical slats) supported by concrete gravel boards and posts.

The visual amenities of the area

Regarding visual impact, policy BNE1 amongst other things requires new development to be visually attractive and appropriate. In terms of householder development specifically, Policy H27 of the Local Plan (Part 2) states that boundary treatments within residential gardens will be permitted provided that proposals are of a scale and character in keeping with the property and not unduly detrimental to the general character and appearance of the area.

In relation to new residential development the Council's Design Guide recognises the aim of separating public and private space but states that 'Front (and side) boundary treatments can take the form of low walls, railings and robust hedges (typically no higher than 1m ...)' (P.21). It also stresses that 'Rear gardens should not back onto the street, but where the sides of rear gardens are exposed to the public realm, a 1.8m high brick wall should be used as a boundary treatment.' (P.53). Whilst this guidance is not directly applicable to the current proposal as it is for a 2m high fence at an established dwelling, it nonetheless gives an indication of the design aims of the Local Planning Authority in terms of boundary treatment in the streetscene.

As noted above, the cul-de-sac is characterised by a shared road surface with dwellings set back at least 5m from the carriageway edge and a general lack of fencing and walling within the landscaped frontages/side gardens, some of which include boundary hedging. No.9's side wall (with fence panel inserts) is set well back and rear of hedging and shrubs and the wall's brickwork blends with that of the dwelling.

Given the site's context, the proposed 2m high close boarded fence (with concrete supports) in place of the low hedging along the plot's boundary with highway land (i.e. set back from the carriageway by just 1.7m) would be an incongruous and unduly prominent feature in the streetscene that would undermine its current open plan, landscaped character and appearance.

The applicant had been asked to consider amending the scheme to just extending the existing boundary wall and fence panels along the side gable so no part of the new boundary treatment would be closer to the highway than the existing wall, and the materials would match. The applicant does not support this amendment and it is acknowledged that such would not provide the additional private garden (and possibly a screened parking) area that is sought. However, it is not considered that the private needs of the occupier outweigh the harm that the proposed fence would cause to the streetscene.

It is acknowledged that the applicant could erect a 1m high fence in the proposed fence position without the need to obtain planning permission from the Local Planning Authority. It is not considered, however, that this 'fall back' position (as a material consideration) lends significant support to the application as submitted, as 1m high fencing would be a far less prominent feature than 2m fencing and it would not cause the harm to the current openness associated with 2m high fencing. It is also unlikely to meet the applicant's desires here, given it would not provide a private amenity space, and thus little weight can be afforded to this alternative approach.

In conclusion, the proposed fencing would, by virtue of its siting and materials, be unacceptably detrimental to the open and soft landscaped character and appearance of the cul-de-sac, and be an overtly prominent and incongruous feature in the streetscene to the detriment of visual amenities of the area, contrary to Local Plan Policies BNE1 and H27.

Amenity of neighbours

The fencing would have an impact on the visual amenities of neighbours but no harm to issues such as privacy or light would occur. The residential amenity aims of Local Plan Policy H27 and the Design Guide would be suitably complied with.

Parking and highway safety

The fencing would not impact on the dwelling's approved parking arrangements nor impact on pedestrian and highway visibility. The proposed scheme would, therefore, have no adverse impact on highway safety, in accordance with a requirement of Local Plan Policy INF2 or the parking requirement of the Design SPD.

Impact on existing trees and hedges

The proposed fence would result in the removal of a low domestic hedge and some garden shrubs but it would not have an impact on any existing trees, such that the aims of Local Plan Policy BNE7 would not be compromised.

Recommendation

Refuse

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	10/09/2019
Report agreed:	10/09/2019
Authorised officer:	Chris Nash
