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Application Number:	EPF/2278/22
Site Name:	8, Alderton Hall Lane, Loughton, IG10 3HJ

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OFFICER REPORT

Application Ref: EPF/2278/22
Application Type: Householder planning permission
Applicant: Mrs & Mr Thiara
Case Officer: Kie Farrell
Site Address: 8, Alderton Hall Lane, Loughton, IG10 3HJ
Proposal: Construction of new boundary fencing
Ward: Loughton Alderton
Parish: Loughton
View Plans: <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000P8Jr>
Recommendation: Approve with Conditions

This application is before this committee since the recommendation is for approval contrary to an objection from a Local Council which is material to the planning merits of the proposal, supported by 1 local resident (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).

Address of Site:

8 Alderton Hall Lane, Loughton, IG10 3HJ

Description of Site:

The application site is a detached single storey bungalow to the corner of Alderton Hall Lane and Alderton Rise.

The dwelling lies on land which has a downward slope from north to south.

The application site is not located in a Conservation Area and is not a Listed Building.

Amended Drawings:

The following amended documents were received on 9th November 2022:

Drawing 28-06-22_P01 – Boundary Treatment Photographs of Existing
Drawing 28-06-22_P02 Rev A – Boundary Treatment As Existing
Drawing 28-06-22_P03 Rev B – Boundary Treatment As Proposed
Design Statement, November 2022.

The revised documents show an amended design with the overall height of the proposed wall reduced.

Loughton Town Council and neighbours were re-consulted on the amended documents.

Description of Proposal:

The proposal is for a brick boundary wall. The maximum height of the proposed boundary wall would be 1.2m at each end, comprising a low brick wall of 85cm in height with metal railings and brick piers up to the maximum height of 1.2m.

The wall steps down with the slope of the road and existing landscaping in the garden behind would be retained.

Relevant Planning History:

PRE/0052/22

Pre application for a proposed boundary fencing design.
Advice given 25.08.2022.

EPF/0843/20

Erection of a metal fence (retrospective) with proposed landscaping.
Refused 18.06.2020.
Dismissed at appeal 05.10.2020.

Reason for refusal:

The railings for the reasons of their siting and design have a detrimental impact on this prominent corner plot. They have a negative impact on the street scene which result in the creation of an unacceptable appearance to the host dwelling and the townscape as a whole. The proposal therefore fails to comply with Policy DBE10 of Epping Forest District Local Plan (1998) and Alterations (2006) and Policy DM9 of Epping Forest District Local Plan Submission Version 2017 and the NPPF 2019.

ENF/0052/20 – Erection of Railing with no Planning Permission

EPF/0063/20

Demolition of an existing roof, erection of a new roof with an increase in height, loft conversion involving 3no front & 1no rear dormers together with internal & external alterations including rebuilding of garage to be used as habitable accommodation.
Refused 05.03.2020.
Allowed at appeal 05.10.2020.

EPF/0905/78

Erection of detached garage
Refused 21.08.1978

Policies Applied:

Local Plan (1998) and Alterations (2006)

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006).

The following policies within the current Development Plan are considered to be of relevance to this application:

CP2	Protecting the quality of the rural and built environment
DBE9	Loss of amenity
DBE10	Design of Residential Extensions

National Planning Policy Framework (NPPF)

The revised NPPF is a material consideration in determining planning applications. The presumption in favour of sustainable development is at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following sections of the NPPF are considered to be of relevance to this application:

Section 12 – Achieving well-designed places.

Epping Forest District Local Plan Submission Version (LPSV) (2017)

Although the LPSV does not currently form part of the statutory development plan for the district, on 14th December 2017 the Council resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The following policies in the LPSV are considered to be of relevance to the determination of this application:

Consultations Carried Out and Summary of Representations Received:

Loughton Town Council (Comments dated 21 November 2022):

“The Committee considered the amended plans that had been provided, but upheld its original OBJECTION, which was:

“The Committee NOTED the contents of a letter of objection.

The Committee OBJECTED to this application stating it completely changes the street scene and character of the road.

Whilst this proposal was an improvement on the previous refusal, this property (on the corner of Alderton Rise) and the houses across Alderton Rise on Alderton Hall Lane up to the junction with Alderton Hill all have open frontages (or did until this fence was erected).

They form an attractive open area with Alderton Rise, where the front gardens are also all open. The boundary fencing, by reason of its height and prominence was out of character and detrimental to the openness of the area. Whilst acknowledging the property adjacent on Greenfields has boundary treatment to edge of pavement, this was part of that street, and the fencing on 8 Alderton Hall Lane amounted to a creeping erosion which was not justified in townscape terms.”

Number of neighbours consulted: 8.

4 responses have been received, comprising 3 objections and 1 letter of support as follows:

4 Alderton Hall Lane (Objection):

“Dear Sirs, Thank you for your letter dated 10 November 2022 advising that the above Application has been updated.

The revised proposals have no impact to the grounds of my objection. Therefore I continue to object to the Application and my letter dated 3 November 2022 stands and should be taken as my formal objection to the revised proposals.

Kindly find attached a further copy of my letter of objection to the Application.

In summary:

- The freeholders are prohibited from enclosing what was originally the front garden of their property under a restrictive covenant, the planning restrictions imposed when the bungalow was first built and the approved plans for the recent enlargement of the property;
- The proposals detract from the harmonious layout of the gardens at the North-Eastern end of Alderton Hall Lane;
- The plans must be considered in the light of the layout of the properties in the same development, including those in Alderton Rise, contrary to the claims made in the Design Statement;
- Comparisons with the boundary treatments of dissimilar properties are not relevant;
- The representations made in the Design Statement regarding the size of the back garden are inappropriate, as the size shown on the plans is as a result of the owners’ choice to build over a significant proportion of the original back garden;
- The owners are seeking to enclose the entire front garden, evidenced by the planting of hedging around the entire plot.”

6 Alderton Hall Lane (Objection):

“There is legal covenant on the property since 1965. Under the regulations . There is no fencing allowed. When the neighbours at 8 Alderton Hall Lane first moved in they built illegal fence. Epping council informed them to take down the fence. They refused to do so. They then appealed to Government. The Government informed them they lost their appeal and they must take the fence down. Since then they refused take the fence down. Epping council have never Legally enforced them take it down.

They have already began the process building fence a year ago. They have planted bushes on the boundary .

So i object to this boundary. As it does not fit into Landscape of the area.”

Loughton Residents Association Plans Group (Objection):

Comments dated 23rd October 2022 (prior to receipt of the amended drawings):

“We object to this application.

Whilst this is an improvement on the previous refusal, this property (on the corner of Alderton Rise) and the houses across Alderton Rise on Alderton Hall Lane up to the junction with Alderton Hill all have open frontages (or did till this fence went up).

They form an attractive open area with Alderton Rise, where the front gardens are also all open. The boundary fencing, by reason of its height and prominence is out of character with the area and detrimental to the openness of the area. Whilst we acknowledge the property adjacent on Greenfields has boundary treatment to edge of pavement, this is part of that street and the fencing on 8 Alderton Hill amounts to a creeping erosion which is not justified in townscape terms.

We also note drawing is inaccurate on Street Elevation BB. The ground slopes down towards the road... hence the existing metal fencing panels are stepped. The height of the proposed brick wall should be increased to match the height of the existing metal fencing. The capping should also be above the top of the metal post."

67 Alderton Hall Lane (Support):

"I see no reason to object to no. 8 Alderton Hall Lane having a boundary fence. The planting on their boundary offers them privacy but not security. Anyone can walk into their garden through the shrubs and their young grandchildren could walk through the planting from the garden into the road known as Alderton Hall Lane, which has fast moving traffic.

I have no objection to my neighbours erecting a fence. I am the only house that faces their house and garden and if it is no problem to me it should be no problem to anyone else. Any objection seems churlish to say the least."

Planning Considerations:

The main issues for consideration in this case are:

- a) The impact on the character and appearance of the locality;
- b) The impact on the living conditions of neighbouring amenities;

Character and appearance:

The Officer's report for EPF/0843/20 (Metal fence) states:

"The proposed railings have been constructed on the south elevation of the front and side curtilage of the application site and are within the clear view of this prominent corner property. The railings have an industrial appearance create an unacceptable outlook within this location. Due to land level changes the height of the railings vary from 1.7 metres to 2.2 metres.

Taking into account the appearance and location of the railings it is considered that the proposal has a detrimental impact on the character of the host dwelling and the townscape as a whole and is not in keeping the character of this prominent street section. The proposal is therefore contrary to Policy DBE10 of Epping Forest District Local Plan (1998) and Alterations (2006) and Policy DM9 of Epping Forest District Local Plan Submission Version 2017."

The Appeal Decision for EPF/0843/20 states:

6. The appeal property is a bungalow, which occupies a corner plot. The front elevation of the dwelling faces Alderton Hall Lane and its northern elevation is roughly level with the front of the neighbouring houses in Alderton Rise. The properties to the north of the appeal site on the eastern side of Alderton Hall Lane, and the adjacent dwellings in Alderton Rise, have their front elevations set back from the road behind open front gardens. This provides a spacious and green feel to the street scene, and the appeal site is seen in this context.

7. The proposed metal fence would enclose part of the front garden, which would appear prominent in the street scene and erode the open aspect of the front garden. I note the proposal for planting to soften the appearance of the railings, however this would not sufficiently mitigate the harm to the spacious character of the area, where the front gardens of properties in the immediate context of the appeal site are generally open.

8. I appreciate that No 2 Greenfields has an adjacent fence and hedging that faces Alderton Hall Lane. Nevertheless, this encloses the rear garden of the neighbouring property and it would not justify the erosion of the open aspect to the front of No 8 Alderton Hall Lane. Furthermore, the nearby properties on the western side of Alderton Hall Lane do not face the road and so they are not viewed in the same context as the properties on the eastern side. Consequently, the boundary fence, wall and gate of those properties would not justify the metal fence at the appeal property.

9. I acknowledge the appellant's need to provide security, however the development is not the only method of providing security, and for these purposes I do not consider that it is necessary to enclose the land to the front of the dwelling. I therefore attach limited weight to this consideration.

10. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of the street scene. The Council has referred to saved Policy DBE10 of the Epping Forest District Local Plan Alterations 2006, however I do not consider this to be directly relevant as it relates to residential extensions. Nevertheless, the proposal would be contrary to Policy DM9 of the emerging Epping Forest District Local Plan Submission Version 2017, which states that all new development must achieve a high specification of design and contribute to the distinctive character and amenity of the local area. It would also be contrary to chapter 12 of the National Planning Policy Framework, which states, amongst other things, that planning decisions should ensure that developments are sympathetic to local character."

From the above planning history it is clear that the previously proposed metal fencing was unacceptable.

However, the current proposal is for a brick boundary wall similar to others found in the surrounding area.

The maximum height of the proposed boundary wall would be 1.2m at each end, comprising a low brick wall of 85cm in height with metal railings and brick piers up to the maximum height of 1.2m.

The wall steps down with the slope of the road and existing landscaping in the garden behind would be retained.

The height of the wall as originally proposed has been reduced (from a maximum height of 1.8m to 1.2m) following receipt of the amended drawings on 9th November 2022.

It is considered that the proposed boundary wall would provide a reasonable balance of retaining some openness whilst also providing the security sought by the applicant.

The landscape planting in the garden behind the boundary treatment would also reinforce privacy and security.

It is worth noting that a front boundary wall of up to 1m in height could be erected under permitted development rights without the need for planning permission.

With a maximum height of 1.2m, the proposed boundary wall therefore only marginally exceeds permitted development limits.

The proposed development is considered to be acceptable in terms of design, character and appearance, including impact on the street scene.

Living conditions of neighbours:

The neighbouring property no. 16 Alderton Rise is located on the east elevation of the subject dwelling and the neighbouring property no. 2 Greenfields is located on the south elevation of the subject dwelling.

Taking into account the siting of the proposed boundary wall it is considered that it would not have a harmful impact on the residential amenity of the occupiers of any neighbouring properties.

Acceptable in this respect.

Restrictive Covenant:

Objectors have stated that a restrictive covenant exists which prevents the erection of a front boundary wall. Irrespective of whether a restrictive covenant exists or not, this is not a material planning consideration which would prevent planning permission being granted.

Conclusion:

Recommended for approval.

If you wish to discuss the contents of this report item please contact the case officer by 2pm on the day of the meeting at the latest, or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk

Case Officer: Kie Farrell | kfarrell@eppignforestdc.gov.uk

Conditions: (3)

- 1 The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:

Drawing 28-06-22_P01 – Boundary Treatment Photographs of Existing
Drawing 28-06-22_P02 Rev A – Boundary Treatment As Existing
Drawing 28-06-22_P03 Rev B – Boundary Treatment As Proposed
Design Statement, November 2022.

Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.

- 3 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those specified on the approved plans and submitted application form.

Reason: To ensure a satisfactory appearance in the interests of visual amenity of the area, in accordance with policy DBE10 of the adopted Local Plan 1998 & 2006, and Policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

Informatives: (1)

- 4 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.