
Application Number	11/1582/CL2PD	Agenda Item	
Date Received	28th December 2011	Officer	Mrs Angela Briggs
Target Date	22nd February 2012		
Ward	Newnham		
Site	36 Barton Road Cambridge Cambridgeshire CB3 9LF		
Proposal	Erection of close boarded fence.		
Applicant	Mr David Qiu C/o Agent - GC Planning Partnership Ltd		

SUMMARY	<p>The proposal accords with Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995.</p> <p>The Certificate of Lawfulness for the erection of close-boarded fence should be granted.</p>
RECOMMENDATION	THE CERTIFICATE SHOULD BE GRANTED

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 No.36 Barton Road is a relatively large property set well back from Barton Road and much further back than the other dwellings along this part of Barton Road. The access to the property is via Barton Close, to the west. The site, subject of this application, refers to the area of land immediately to the south of the no.36, which is currently used as garden. A sister planning application (Ref: 11/1587/FUL) is currently being

considered by the Local Planning Authority, for the erection of one dwelling on this area of land. The boundaries of the site currently comprise of mature vegetation and some trees, however the boundary with No.34 Barton Road is less established and there is a window on the boundary between the properties which serves the kitchen/dining area.

- 1.2 The site falls within the West Cambridge Conservation Area. There is an Ash tree on the south-western corner of the site, an Oak tree on the south eastern corner of the site, and a Silver Birch on the western boundary. All of these trees are protected by Tree Preservation Orders. The site falls outside the Controlled Parking Zone.

2.0 THE PROPOSAL

- 2.1 This is an application for a Certificate of Lawfulness for a proposed fence around the entire boundary of the site. The application is made under Section 192 of the Town and Country Planning Act 1990.
- 2.2 Applications for Certificates of Lawfulness are not normally considered by Committee and are routinely dealt with by officers under delegated powers. An application for a Certificate of Lawfulness differs from a planning application in that its purpose is to establish whether a proposed development requires planning permission or not. If a Certificate is granted then the development is immune from enforcement action. The judgement as to whether planning permission is required or not is based on an assessment of evidence; the planning merits of the proposed development cannot be considered.
- 2.3 The application is being brought to Committee because following consultation with neighbours, objections have been received but also because of the sensitive nature of the full application for the proposed dwelling. It is considered that determination by Committee would be advantageous given the fact that the application raises an issue which is of relevance throughout the City and because an earlier planning application for a new dwelling on the site raised concerns amongst local residents.
- 2.4 The application is accompanied by the following supporting information:

1. Planning Statement

3.0 SITE HISTORY

Reference	Description	Outcome
11/1587/FUL	Erection of dwelling house on land adjacent to 36 Barton Road	Pending consideration
10/0968/FUL	Erection of a zero carbon 4-bed dwelling house.	Appeal against non-determination . Appeal dismissed.
08/0507/FUL	Demolition of existing detached house and single garage. Erection of 11no flats together with associated car parking, cycle stores, staircases etc.	Refused

4.0 PUBLICITY

4.1	Advertisement:	No
	Adjoining Owners:	Yes
	Site Notice Displayed:	No

5.0 CONSULTATIONS AND REPRESENTATIONS

5.1 Applications for Certificates of Lawfulness are not normally subject to neighbourhood consultation because the merits of the proposal are not under consideration. However a letter has been sent to 1 resident, at 34 Barton Road, who has also commented on the planning application. Letters of objection have also been received from the following residents:

- 34 Barton Road
- 7 & 11 Barton Close
- Barton Close Residents Association
- Honeypot Cottage, Rattlesden Road, Drinkstone, Bury St Edmunds
- 20 Grantchester Road

The objections can be summarised as follows:

- Close boarded fencing will result in the loss of the existing yew hedges and would block routes for small mammals transferring between sites. The 2m high fence may interfere with the amenities of 34 Barton Road.
- It would be preferable if the fence was lower at the rear sides of the boundary and higher along the front garden area.
- A 2m high fence running past our conservatory would affect light levels and prevent us opening 2 windows.
- Keen to retain the hedge which provides protection for the birds and suits the character of the Conservation Area.
- Object to the separation of the land to create a development plot. The green corner helps to soften the entrance to the Close and enhances the green effect of the Barton Road approach to the city.
- Loss of open garden space, contrary to Policy 5/1 of the Cambridge Local Plan
- The division and fencing off of the property is yet another attempt to secure an empty plot and planning permission for further commercial gain and future development.

The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

6.0 ASSESSMENT

- 6.1 This is an application made under S192 of the Town and Country Planning Act 1990 for a Certificate of Lawfulness for the erection of close-boarded fencing. The applicant seeks confirmation that the proposed fencing is permitted development under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995. The Schedule reads as follows:

“Permitted development

A. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Development not permitted

A.1. Development is not permitted by Class A if—

- (a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed one metre above ground level;*
- (b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed two metres above ground level;*
- (c) the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in sub-paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or*
- (d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building”*

- 6.2 The proposal involves erecting close-boarded fencing around the entire boundary of the site, to create a means of enclosure. This would result in an area of existing garden land to be effectively closed off from the host dwelling, No.36. The height of the fencing would vary depending on its relationship to the highway, as the regulations stipulate.
- 6.3 Therefore it is proposed to erect a two metre high fence running north to south adjacent to the common boundary with No.34 and a two metre high fence running east to west adjacent to No. 36. The height of the fence is reduced to 1 metre across the Barton Road and Barton Close frontages and on its returns by 2 metres into the site.
- 6.4 Whilst I appreciate that the neighbours have raised concerns about this application, which are all valid points, my assessment of this application is based on the evidence presented with the application and against the regulations of the Town and Country Planning (General Permitted Development) Order 1995, which is the over-riding planning document that establishes whether this proposal is permitted development or not. I cannot take into account issues concerning loss of light, loss of hedging or the merits of any other planning issues raised by the objectors.

7.0 CONCLUSION

7.1 Based on the evidence provided in the application, I am of the view that the erection of the close-boarded fence would constitute permitted development in accordance with the Town and Country Planning (General Permitted Development) Order 1995.

8.0 RECOMMENDATION

8.1 That a Certificate of Lawfulness be granted under Section 192 of the Town and Country Planning Act 1990 (as amended) for the erection of close boarded fencing.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Under Section 100D of the Local Government Act 1972, the following are “background papers” for each report on a planning application:

1. The planning application and plans;
2. Any explanatory or accompanying letter or document from the applicant;
3. Comments of Council departments on the application;
4. Comments or representations by third parties on the application as referred to in the report plus any additional comments received before the meeting at which the application is considered; unless (in each case) the document discloses “exempt or confidential information”
5. Any Structure Plan, Local Plan or Council Policy Document referred to in individual reports.

These papers may be inspected on the City Council website at:

www.cambridge.gov.uk/planningpublicaccess

or by visiting the Customer Service Centre at Mandela House.