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Regulatory Board
24 February 2021

A MEETING OF THE REGULATORY BOARD WAS HELD ON 24 FEBRUARY 2021

The Mayor
Councillor Hook

Councillors Bateman, Carter, Casey, Earle, Farr, Foster-Reed, Hammond, Herridge,
Mrs Hook, Mrs Jones, Miss Kelly, Murphy, Scard and Westerby

40. APOLOGIES FOR NON-ATTENDANCE

An apology for non-attendance was received from Councillor Mrs Batty.

41. DECLARATIONS OF INTEREST

There were none.

42. MINUTES OF THE MEETING HELD ON 13 JANUARY 2021

RESOLVED: That the minutes of the meeting held on 13 January 2021 be signed as a true and correct record.

43. DEPUTATIONS - STANDING ORDER 3.4

Deputations were received on agenda item 6, item 1 of the grey sheets.

44. PUBLIC QUESTIONS - STANDING ORDER 3.5

There were none.

45. REPORT OF THE DEVELOPMENT MANAGER

20/00343/FULL - RETENTION OF INFILL PANEL AND DOOR TO SIDE AND INCREASE IN HEIGHT OF BOUNDARY WALL TO 2.15M HIGH WITHIN REAR GARDEN 27 Dorrien Road Gosport Hampshire PO12 4RA

Consideration was given to a report of the Development Manager requesting that consideration be given to planning application 20/00343/FULL.

Members had undertaken a virtual site visit from both the applicants and the neighbour's property.

A deputation from Miss Matthias, was read out by the Borough Solicitor and Monitoring Officer

The Development Manager advised the Board that land ownership matters were not material planning considerations and as such could not be given significant weight by

Members in their decision making and that Members' should only consider the planning merits of the proposal in design and amenity terms.

In answer to Member's question the Board was advised that the right to light was a private matter, however light in terms of outlook could form part of the amenity considerations, but it was highlighted that of the windows highlighted in the deputation one was relatively small in the flank elevation of the neighbouring property, facing in the gap between the two properties and was north facing. The other window in the rear elevation highlighted served a bathroom.

A deputation from the applicants, Mr and Mrs French was read out by the Borough Solicitor and Monitoring Officer

The Development Manager reiterated that many of the issues raised were not material planning consideration and should be disregarded.

In answer to a Member's question it was clarified that the wall was constructed in 2020 as was the infill panel. The wall, at its current height did not require planning permission, as it was permitted development. It was on the line of a previous boundary treatment, believed to be a 1.8 metre fence.

The Board was advised it was believed the infill panel was sought to prevent fumes from the neighbouring vent, it was believed that the increase to the wall was to allow the applicant to add additional height to the wall without cutting the blocks and to reduce the wall to less than 2 metres Mr French would be required to cut 30 blocks down to size.

It was understood that Miss Matthias was the owner of the neighbouring property.

In answer to a Member's question, the Board was advised that the height of the wall differed on each neighbour's side, as at the property number 25, the ground stood between 5 and 10cm lower.

The Board was advised that the height of a structure was measured from the natural ground level on which the structure sat. There were no signs of artificial ground raising or levelling and Dorrien Road had a natural slope to it accounting for the slight difference in height and in this instance an average of the two heights would be taken.

It was confirmed to the Board that the average height was 1.85 metres and the applicant sought permission to increase the wall to 2.15 metres. An increase up to 2 metres could be undertaken under permitted development, but an increase over that required planning permission. The Board was advised that the application sought permission to include an additional full block and capping to finish the wall.

It was clarified that currently the capping could be added and the wall would be less than two metres.

Members felt that there clear disagreement between the neighbours; it was felt that 2 metres was an acceptable height and that it was difficult to consider an increase when relations between the neighbours were unsettled.

It was acknowledged that visual amenity was subjective with lower ground and would therefore look higher than at 27. It was already considered to be overbearing by the objector and some Members felt that this was shown at the site visit and that it would impact adversely to should it be higher than 2 metres.

The Board was advised that 2 metres was the limit for permitted development, walls could be constructed higher than that, but required planning permission. Members needed to consider what harm would be caused to justify a refusal, should they wish to refuse the application to increase the wall to higher than 2 metres.

The Board was advised that generally in the neighbouring area boundaries were fences of 1.8 metres, but this did not prevent construction of a 2 metre wall.

Members felt from the site visit the wall had shown the proposal was overbearing and unnecessary and that this was the perceived harm.

The Board was advised that the proposed increase was for an increase in height of 6 inches. Some Members felt that there was not sufficient justification for refusing the application under planning legislation.

Members acknowledged that there needed to be a sufficient planning reason for refusal should that be proposed.

Members accepted that the reasoning for the proposed increase was not relevant to the Board, but felt there was an adverse impact on the neighbouring property's amenity as the proposal was overbearing.

Members recognised that the wall could be increased to 2 metres, which was half of the proposed increase, without requiring planning permission. Members accepted that the neighbours did not see eye to eye, however this was not a material planning consideration.

Members felt that the policy was contrary to LP10 and expressed concern that there would be an increase in height to many garden fences, impacting on the community feel to properties. It was felt that there should be extraordinary circumstances to increase the boundary above 2 metres and that this application did not do that. It was reiterated that an increase to 2 metres could be made to finish the wall and provide a good atheistic appeal.

It was proposed and seconded that the application be refused as the increased height of the wall would have an unacceptable overbearing impact on the occupier of the neighbouring property detrimental to their residential amenity, contrary to Policy LP10 of the Local Plan. The Board was advised that if the infill panel was deemed acceptable, the reason for refusal only needed to reference the wall.

It was confirmed to the Board that the applicant would still be able to construct the wall to two metres under permitted development if the application was refused.

The Board was advised that it was difficult to make a split decisions on the differing elements of the proposal, if it was only the wall that Members were seeking to refuse, if the infill panel was deemed acceptable the reason for refusal would need to solely acknowledge that and a tacit approval would be given to the infill panel to ensure enforcement action wasn't taken.

It was confirmed to the Board that enforcement action was discretionary and carried out where there was justification for it to be carried out. Whilst planning permission would not be granted for the infill panel if the application was refused, permission could be applied for separately for the infill panel. The Development Manager also agreed that a letter could be placed on the file, detailing the outcome of the application and highlighting that there was no expedient need for enforcement action.

In answer to a Member's question, the Board was advised that both elements of the proposal required planning permission and that the infill panel had already been built, that element was therefore retrospective. The increase height to the wall was prospective. Concern was expressed that the infill panel could be used as a tool in the neighbour dispute.

The Development Manager advised that if Members were satisfied with the infill panel, this would be recorded in the minutes.

Members advised that they were satisfied with the application for the retention of the infill panel and they wished to object to the proposed increase in height to the wall.

The Board was advised that it was not possible to take a vote on the two elements of the proposal separately, but the minutes could clearly indicate the separation of the two elements. The Board was advised that it was possible to defer the application and ask the applicant to resubmit it without the application for the wall.

The Board was advised that the most appropriate option would be the refusal of the application, and the noting of the satisfaction with the infill panel.

RESOLVED: That the application be refused as the increased height of the wall would have an unacceptable overbearing impact on the occupier of the neighbouring property detrimental to their residential amenity, contrary to Policy LP10 of the Local Plan and that it be noted that the proposal for the retention of the infill wall was accepted.

46. ANY OTHER ITEMS

There were two appeal related matters, a MIB has been sent to Members regarding Hanger Homes proposal at Daedalus... The Inspector dismissed the appeal and in doing so upheld three of the four substantive reasons for refusal. The reason related to car parking was not upheld as the Council was unable to provide evidence in support of its position due to the pandemic causing an unrepresentative situation with parking at the existing Control Tower car park.

There had been an application for a cross boundary an access road off Brookers Lane to serve a proposed housing development in Fareham Borough.

Notice of an appeal against this Council's refusal and had been received and it was understood that an appeal on the grounds of non-determination had been made for the Fareham application. The Planning Inspectorate has indicated that they will link the two appeals such that they will be considered together. The appeal procedure has not been finalised although it is anticipated it may be by way of an informal hearing. Confirmation of this from the Planning Inspectorate together with the start letter which will set the timetable for the appeal process and triggers the initial publicity would be sent in due course. In the interim discussions will be held with colleagues at Fareham to establish what position they will be taking. Members would be updated in due course when more information is received from the Planning Inspectorate.

CHAIRMAN

Concluded at 7.24 pm

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