Expiry Date - 10/05/2024

Development Control – Delegated Officer Report

Application Number: AWDM/0290/24 Recommendation – APPROVE

Site: 54A Marine Crescent Worthing West Sussex BN12 4JG

Proposal: Application for Certificate of Lawfulness for proposed 1m high gates adjacent to highway on East boundary, 1.8 high fence to North boundary reducing to 1m high

Site visit: N

Site and Surroundings

The application relates to 54A Marine Crescent which is accessible via Beachside Close to the east. 54A is a first-floor flat within a two-storey detached building comprising a total of 2No flats; No. 54 occupies the ground-floor of the building. The properties occupy a corner plot with the adjacent roads Marine Crescent to the south and Beachside Close to the east. The curtilage of the property fronting the highways land comprises a shallow brick wall measuring approximately 1m high with 3No. openings for access (2 serving No. 54 and 1 serving No. 54A) along with a hardstanding to the rear which serves the garages to the respective flats. The applicant is in ownership of the north-east garden space of the plot to the south of hardstanding.

The property is not located within a Conservation Area and is not a Listed Building.

Proposal

A Lawful Development Certificate for proposed use is sought to part demolish the existing front boundary wall in order to install 1m high gates measuring 3m wide with brick piers either side. The existing opening in the wall would be infilled with a brick of a matching height and design and brick piers removed. To the rear of the applicant's garden adjacent the hardstanding a 1.8m high fence with a gate would be installed reducing to 1m in height within 2m of the highways.

Planning Assessment

Principle

The proposal will be viewed against the criteria of permitted development, as laid out within The Town and Country Planning (General Permitted Development) (England) Order 2015

Consideration

Schedule 2, Part 2, Minor Operations

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

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—
(i) for a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;
(ii) in any other case, 1 metre above ground level;

Analysis: The GPDO deliberately does not offer a definition of "adjacent to a highway" and this is because the interpretation can differ according to site context. In this circumstance within a sub-urban context, the Council typically uses the 'rule of thumb' that a wall, fence or other means of enclosure would typically need to be sited 2m from the edge of the highway in order not to be considered "adjacent to a highway". Given the gate and fence would not exceed 1m in height within 2m of the highways, the development is found to accord with the Council's interpretation on the matter.

(b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;

Analysis: The maximum height of the other fence and gate would not exceed 2m.

(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 paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater;

Analysis: The wall would not exceed its former height.

(d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.

Analysis: Not applicable.

Recommendation

Issue a Certificate of Lawfulness for Proposed Development, the submission of a planning application for the works will not be required.

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Reasons for Recommendation

The proposal constitutes 'development' as defined by Section 55 of the Town and Country Planning Act 1990, but is permitted by Class A of Part 2 Schedule 2 of Town and Country Planning (General Permitted Development) (England) Order 2015.

Case Officer:	Jason Albon	Date: 09/05/2024
Authorised by:	Jo Morin	Date: 09.05.2024