

Appeal Decision

Site visit made on 2 November 2016

by Mr J P Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 December 2016

Appeal Ref: APP/W0530/C/16/3150018

Land at 6 Maltings Lane, Great Chishill, Royston, Cambridgeshire SG8 8SW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Hazel Mander-Callaby against an enforcement notice issued by South Cambridgeshire District Council.
 - The notice was issued on 6 April 2016.
 - The breach of planning control as alleged in the notice is the erection of a close boarded wooden fence on the boundary with 8 Maltings Lane.
 - The requirements of the notice are remove the wooden fence, replace with post/rail fencing or post/wire fencing and restore surrounding land to its original state.
 - The period for compliance with the requirements is 90 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Act as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended is also to be considered.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the erection of a close boarded wooden fence on the boundary with 8 Maltings Lane on land at 6 Maltings Lane, Great Chishill, Royston, Cambridgeshire SG8 8SW referred to in the notice, subject to the following condition:
 - 1) Within one month of the date of this decision details shall be submitted to the local planning authority for approval of the proposed treatment for the fence, together with a timetable for its application, and the approved treatment shall then be applied in accordance with the approved timetable.

Procedural matters

2. There is no property known as 6 Maltings Lane at the moment. Rather, this address refers to what is now a plot with planning permission for a dwelling that lies between 4 and 8 Maltings Lane. In my decision I shall refer to this plot as No 6.

Main Issue

3. Having regard to sections 66 and 72 in the *Planning (Listed Buildings and Conservation Areas) Act 1990* and the guidance in the *National Planning Policy Framework* (the Framework) the main issue is whether the fence adversely affects the setting of the adjacent listed building and the character or
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appearance of the Great Chishill Conservation Area, and whether it harms the significance of either of those designated heritage assets.

Reasons

4. The Great Chishill Conservation Area is focused on and around the historic core of the village, and its significance arises from the way in which it contains a range of dwellings and properties that indicate the evolution of this rural settlement over time. Maltings Lane adds notably to that significance due to its informal character and the presence and arrangement of a number of older buildings, many of which are listed.
5. No 8 is a thatched roof, 2-storey Grade II listed dwelling that dates from the 16th Century and stands at right angles to the road as the western wing of a historic courtyard development. Its significance is due, in part, to the manner in which its form, materials and features reflect its age and its origins as a simple property in a historic rural community. These factors also mean it contributes positively to the significance of the conservation area.
6. Although in a cluster of buildings around a courtyard, the main elevation of No 8 is on the west side, which faces away from that courtyard. I understand that until recently the land to the west between its frontage and the plot occupied by No 4 was all associated with No 8. However, in June 2016 planning permission was granted on appeal¹ (the 2016 decision) for a barn-style dwelling to be built at No 6, which forms the half of this land furthest from No 8. The remainder of the area to the west of No 8 has stayed as that property's main garden.
7. The fence subject of this appeal separates No 8 and No 6, and so runs from Maltings Lane on the north to the field boundary on the south side. It is a solid timber construction that is in the region of 1.8m high, though it dips down to about 1.2m when it passes in front of the main elevation of No 8.
8. The 2016 decision is a material change in circumstances that has occurred since the Notice was issued. While work on the dwelling subject of that decision does not yet appear to have started, the pursuance of the appeal and the formation of the plot indicate an intent that means the prospect of a house at No 6 should be afforded significant weight.
9. In that decision the Inspector described No 6, no doubt when considered with the garden of No 8, as being '*a pleasant element of the listed building's setting*'. Moreover, she added in a footnote that the fencing subject of the Notice in front of me was '*currently a negative feature*'. She was of the view that the fencing did not form part of the scheme before her, and imposed a condition requiring fencing for the development she was considering to be agreed.
10. Without the unauthorised fence the existing garden of No 8 plus the area of No 6 would, together, have created a large open space within which and over which the main elevation of the listed building could have been appreciated. As such, when the previous Inspector visited the site in connection with the 2016 decision the fence would have appeared as an isolated and noticeable feature as it crossed the plot.

¹ Appeal Reference APP/W0530/W/16/3142156 dated 14 June 2016.

11. However, if the dwelling permitted under the 2016 decision is to be built, the extent of this area to the west of No 8 would be reduced by roughly half and the contribution No 6 made to any sense of openness would significantly diminish. Moreover, in those circumstances the fence would no longer appear so isolated or noticeable as it would be close to the side of a dwelling, playing the expected and reasonable role of marking the boundary between the 2 properties. As such, some form of boundary treatment on this line is appropriate, and its height and solidness would have to take into account the need for privacy. Furthermore, when looking from the lane to the west the proposed dwelling at No 6 would screen the part of the fencing that would lie behind, while the new house would be sufficiently large to draw the eye away to some extent from any fencing to the front.
12. Alternatively, working on the basis that the new dwelling would not be built at No 6, I have no reason to assume the existing boundary fence along the frontage of that plot would be taken down, and so what is before me would remain significantly screened. Putting that aside, although the Notice could have just said the unauthorised fence should have been removed, it nonetheless goes further and requires its replacement with post/rail or post/wire fencing. Even presuming that what would then be constructed would be less intrusive than what is now present it would still break up the combined gap created by No 6 and the garden of No 8, diminishing the role that No 6 played in the appreciation of the listed building.
13. With regard to the fence itself, its line allows for a relatively deep garden in front of the main elevation of No 8 that is of a reasonable and appropriate size for a building of this age and character. Although it is light in colour at the moment, this could be addressed with a suitable staining treatment reducing its prominence and making it more subdued. Given this, the separation is sufficient to mean it does not impinge unduly onto views of that property from the lane or cramp and confine No 8 unacceptably. When looking from the listed building the fence is apparent, but because of the distance involved it is not overwhelming or dominant, and this impact would be further reduced if the new house were to be built behind.
14. I also need to take account of the fallback position, which is that the Appellant has to erect a fence if the appeal is dismissed. As that is a requirement of the Notice it could be undertaken without needing further planning permission. However, the Notice fails to specify the materials, design or height of the replacement, stating only that what is built should be a post/rail or a post/wire fence, presumably based on any reasonable definition of those terms. As a result, there is a tremendous range of fencing that could be constructed. While there is no certainty that the Appellant would install a fence of a particularly poor design in such circumstances, it is nonetheless a possibility that adds weight to allowing the development.
15. The Council's supplementary planning document called *Listed Buildings: Works to or affecting the setting of* (the SPD), when discussing the impact of works on the setting of listed buildings, broadly seeks to resist any application that would damage, dominate or harm the listed building, its context and its relationship with its surroundings. In the light of the above, I consider the fence does not conflict with the requirements of this part of the SPD. Therefore, while it also says '*close-boarded fences are generally not appropriate within the setting of*

listed buildings' (my emphasis), the circumstances of this case mean this fence is one of those that the SPD acknowledges to be not inappropriate.

16. Given my reasoning above, I also find that the fence does not detract unacceptably from the character or appearance of the conservation area.
17. A wider concern was raised as well about the relationship of this fence to the rural landscape to the south. However, the fence is visually within the settlement and runs between the gardens rather than separating them from the countryside. As such its impact in this regard is not unacceptable.
18. In coming to these findings I am aware that in the 2016 decision it was not stated how the fence was '*a negative feature*', though the decision confirmed that the gap comprising No 6 and the remaining garden for No 8 did not contribute positively to the significance of the listed building. Furthermore, as that Inspector had concluded this fence was not before her it is reasonable that she imposed a condition concerning the agreement of boundary treatments. I am mindful too that in the 2016 decision the merits of this fence and the implications of complying with the Notice were not being directly considered and had probably not been at the heart of the submissions. As a result my assessment is inevitably based on different information and contentions. Therefore these matters constitute a material change in circumstances that mean the 2016 decision does not lead me to find this fence is unacceptable.
19. The Council has suggested a single condition be imposed requiring the measurements, materials and treatment of the fence to be agreed. However, in allowing this appeal I am permitting the dimensions and materials now before me although, as stated above, staining could soften its impact.
20. Accordingly I conclude this fence does not adversely affect the setting of 8 Maltings Lane or fail to preserve the character or appearance of the Great Chishill Conservation Area, and so it does not cause harm to the significance of either of these designated heritage assets. As a result, I also find it does not conflict with Policies CH/4 and CH/5 in the Council's *Development Control Policies Development Plan Document*, the SPD or the Framework.

J P Sargent

INSPECTOR