
Appeal Decision

Site visit made on 12 December 2017

by David Cliff BA Hons MSc MRTPI

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

Decision date: 11th January 2018

Appeal Ref: APP/U2235/W/17/3179202

**Land adjacent South Cottage, High Street, Staplehurst, Tonbridge
TN12 0BH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Nigel Senington against the decision of Maidstone Borough Council.
 - The application Ref 17/500175/FULL, dated 9 January 2017, was refused by notice dated 16 June 2017.
 - The development is temporary security fencing.
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Decision

1. The appeal is allowed and planning permission is granted for temporary security fencing at land adjacent South Cottage, High Street, Staplehurst, Tonbridge TN12 0BH in accordance with the terms of the application Ref 17/500175/FUL, dated 9 January 2017, and the plans referenced 'Site Location Plan', 'Block Plan' and the unreferenced fence panel plan, and subject to the following condition:
 1. The fencing hereby permitted shall be removed from the site no later than six months from the date of this decision.

Preliminary matters

2. At my site visit I saw that the fencing the subject of this appeal has been erected adjacent to the front boundary of the site. The application form says that it was erected in September 2016. The application form also describes the fencing as being temporary though no details are provided of the period of time for which permission is sought.
3. The Council adopted the Maidstone Borough Local Plan (October 2017) on 25th October 2017, subsequent to the determination of the appeal application. The substance of the relevant policies for this appeal remains unchanged from the emerging policies considered at the time of the application and I am satisfied that no party has been prejudiced by this change in policy circumstances.

Main Issues

4. The main issues are whether or not the fencing preserves or enhances the character and appearance of the Staplehurst Conservation Area and its effect upon the setting of the adjoining listed buildings.

Reasons

5. The fencing is located adjacent to the front boundary of the site fronting on to High Street. It is therefore clearly visible in views of the site from High Street and the Conservation Area. Grade II listed buildings are located to either side of the site.
6. In determining a recent appeal¹ for residential development on the site, the Inspector noted that the opening up of the site has enhanced its value in relation to the setting of the adjacent listed buildings.
7. The metal mesh fencing used is not a material that is typical of the mainly traditional surrounds of the site. It is also out of keeping with other existing boundary treatments in the vicinity which involve hedging and other planting.
8. However, its visual impact is rather limited as the fence still allows views through it into the site and towards the adjacent buildings. Any harm resulting would also be reversible given its form of construction. Nonetheless, its appearance is not sympathetic to the traditional character and appearance of the Conservation Area, or that of the adjacent listed buildings. As such, I consider that less than substantial harm would result to these heritage assets from its retention on a temporary basis.
9. The appellant states that fencing is needed to avoid more fly tipping, potential squatting by travellers and to avoid liability for any injury, loss or damage caused by trespassers on the site. I acknowledge that it is beneficial for the site to be enclosed, particularly given that it is unoccupied and the owner lives some distance away. In the context of paragraph 134 of the National Planning Policy Framework, I consider that the public benefits of the fence being retained on a temporary basis, outweigh the less than substantial harm to the Conservation Area and the setting of the adjacent listed buildings.
10. In its appeal statement the Council has suggested a condition (in the event of the appeal being allowed) that the fence shall be removed within a period of six months. The appellant has not provided any comments on this suggested condition or suggested any alternative. Such a temporary permission would provide time for the appellant to give further consideration to and implement a more appropriate means of enclosure. Whilst I acknowledge that the appellant is seeking to carry out future development of the site, there is currently no indication of a permission being gained or of the period of time that the site is expected to remain in its current form. Therefore, from the evidence before me, to grant permission for a longer period of time would result in longer term harm that may not be outweighed by any public benefits.
11. The fence results in less than substantial harm to the character and appearance of the Staplehurst Conservation Area and the setting of the adjacent listed buildings. However, on a temporary basis, such harm would be outweighed by the public benefits arising from providing a means of enclosure to the site. Therefore, the less than substantial harm would be contrary to the heritage and design aims of policies SP18 and DM1 of the Maidstone Borough Local Plan 2017 ('the Local Plan') and policy PW4 of the Staplehurst Neighbourhood Plan 2016. However, taking account of the public benefits, on a temporary basis it accords with policy DM4 of the Local Plan and paragraph 134 of the

¹ APP/U2235/W/16/3144947

Framework. Compliance with policy DM4 and the Framework are the overriding considerations in this case.

Conditions

12. As referred to above, a condition limiting the permission to a period of six months is necessary to preserve the character and appearance of the conservation area and the setting of the adjacent listed buildings. I do not consider it necessary or reasonable to impose a requirement as suggested by the Council for the existing pink paint on the uprights of the fencing panels to be removed, given the limited time period for which permission is granted. It is not necessary to attach an approved plans condition as the fence has already been constructed.

Conclusion

13. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

David Cliff

INSPECTOR