



Appeal Decision

Site visit made on 10 March 2020

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2020

Appeal A: Appeal Ref: APP/C4235/C/19/3239034

Appeal B: Appeal Ref: APP/C4235/C/19/3239035

Land at 36 The Crescent, Stockport SK3 8SN

- 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 appeals are made by Mrs Lauren Rodgers (Appeal A) and Mr Dan Rodgers (Appeal B) against an enforcement notice issued by Stockport Metropolitan Borough Council.
- The enforcement notice was issued on 13 August 2019.
- The breach of planning control as alleged in the notice is: Without the benefit of planning permission, the installation of gates and posts (over 1 metre in height) adjacent to a highway and within the Egerton Road/ Frewland Avenue Conservation Area. This conservation area is subject to an Article 4(2) Direction, removing permitted development rights from external elevations, the surrounding curtilage and boundaries that front a 'relevant location' (defined as a highway, waterway, or open space in Article 3 of the Town and Country Planning (General Permitted Development Order) 1995).
- The requirements of the notice are:
 1. Remove the double gates, gateposts and associated fittings from the land.
 2. Make good any damage caused by complying with step 1 above, using materials which are an exact match for those used on the existing property.
- The period for compliance with the requirements is 3 months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
- Appeal B is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Decisions

1. It is directed that the enforcement notice be corrected by deleting the last sentence of paragraph 3 and inserting at the start of paragraph 4 the following text: "This conservation area is subject to an Article 4(2) Direction, removing permitted development rights from external elevations, the surrounding curtilage and boundaries that front a 'relevant location' (defined as a highway, waterway, or open space in Article 3 of the Town and Country Planning (General Permitted Development) Order, 1995)."
2. Appeal A is allowed insofar as it relates to the gateposts and planning permission is granted on the application deemed to have been made under section 177 (5) of the 1990 Act as amended, for the installation of gateposts at the Land at 36 The Crescent, Stockport SK3 8SN.

3. Subject to the correction in paragraph 1 above, the Appeals are dismissed insofar as they relate to the installation of gates and the enforcement notice is upheld. In Appeal A planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended in respect of the installation of gates at Land at 36 The Crescent, Stockport SK3 8SN.

The Enforcement Notice

4. The breach of planning control alleged in paragraph 3 of the notice also includes information regarding the Article 4(2) Direction which is in place in the Egerton Road/ Frewland Avenue Conservation Area. However, this information is more relevant to the reasons for issuing the notice. I shall therefore delete the last sentence of paragraph 3 and reinsert it with some corrections to the punctuation in paragraph 4. I am satisfied that this correction would not result in any injustice to the appellant or the Council as it is made solely for reasons of precision.

Appeal on ground (a), deemed planning application (Appeal A only)

Main Issue

5. The main issue in this case is the effect of the development on the character and appearance of the host property, the street scene and Egerton Road/ Frewland Avenue Conservation Area.

Reasons

6. The appeal property is a substantial detached red brick dwelling which has a prominent timber framed front gable. It is situated on a residential street within Egerton Road/ Frewland Avenue Conservation Area (CA).
7. From my observations and the details available to me, including the Council's Conservation Area Character Appraisal (CACA) for the CA (updated 2011), I consider the significance of the CA as a heritage asset is mainly drawn from its character as a low-density residential suburb predominantly comprised of late 19/20th Century detached and semi-detached villas situated in spacious and verdant plots. The layout of the properties, their high-quality materials and craftsmanship and fine architectural details produce a visual harmony throughout the street. These characteristics are reinforced by the views from the street into private spaces, and all of which contribute to the significance of this heritage asset.
8. The CACA identifies the unique views from public spaces as a characteristic which contributes to the special character of the CA. I saw on my site visit that hedgerows are the dominant boundary treatment for the front gardens of properties situated on The Crescent and within the vicinity of the appeal site. The hedgerows contribute to the leafy street scene. In addition, the majority of the dwellings have open gateways which provide clear views of the dwellings' attractive front facades and their verdant garden areas. Those views reinforce the special characteristics and features identified as being important in their contribution to the significance of the CA.
9. I understand the reasons for the appellant's choice of materials for the gates and their finish, and I recognise that the overall design and appearance of the gates is reflective of vernacular architecture. However, the introduction of solid

timber gates in this location gives the site a fortress appearance which detracts from the existing open and verdant frontages which are prevalent in the street.

10. I appreciate that the historic photographs the appellant has provided of Bramhall Lane show some evidence of timber gates within boundary walls. However, the character of The Crescent is one of frontage hedgerows with open gateways. Those existing and predominantly open gateways, and indeed those which I observed which have decorative metal gates, all contribute to the spacious appearance of the properties within the street. In addition, they afford views of the attractive high-quality architecture which is prevalent. In contrast, the gates which have been erected present a significant solid barrier adjacent to the pavement and are an obtrusive feature on this part of the street. They prevent views of the dwelling's private frontage and have a harmful effect on the character of the street. Furthermore, they diminish the positive contribution that the appeal site makes to the street and CA.
11. I conclude that the gates do not preserve or enhance the character and appearance of Egerton Road/ Frewland Avenue Conservation Area and have a harmful effect on the appearance of the street scene and the host property. The gates cause less than substantial harm to the significance of the CA as a heritage asset. This harm is not outweighed by any public benefit. The development is therefore contrary to policies in the National Planning Policy Framework (the Framework), which seek to conserve and enhance the historic environment. In addition, the development conflicts with the design and heritage aims of both Core Strategy Policy CS8 and Development Management Policies SIE-1 and SIE-3 of Stockport's Core Strategy DPD, adopted March 2011. I also find conflict with saved Policy HC1.3 of Stockport's Unitary Development Review, 2006 which advises that development within conservation areas will not be permitted unless, amongst other things, the siting, scale, design, materials and landscaping of the development are sympathetic to the site and surroundings.
12. However, it seems to me that the gateposts, which provide support for the gates, do not in themselves have a harmful effect on the character and appearance of the conservation area. There are a significant number of other driveways which are flanked by individual gateposts in the CA and those posts vary considerably in their appearance, design and materials of construction. The gateposts in this case do not affect the spatial characteristics of the area and nor do they obscure views between public and private spaces. In addition, their design, proportions, materials of construction and finish respond to local vernacular architecture and preserve the character and appearance of the CA. The granting of planning permission for the gateposts alone would not therefore conflict with policies in development plan or the Framework.

Other Matters

13. I have taken into consideration the other examples of timber gates provided by the appellant, and I was able to observe some of those on my site visit. I do not know the precise circumstances or planning considerations surrounding those other examples, however the existence of those other timber gates on The Crescent detract from the character and appearance of the area and therefore do not set a precedent that should be repeated. In any event, I have determined the appeal on its own merits.

14. I understand the appellants' endeavour and frustrations as they seek to improve their home and I recognise that they have tried to engage with the Council throughout the planning process. I have also taken into consideration the appellants' desire to increase security at the property and the letters of support from neighbouring residents. However, the harm that I have identified would be permanent and I am not persuaded that there would not be other solutions available that would help to deal with these concerns.

Conclusion

15. For the reasons given above, I find that the gateposts are acceptable and clearly severable physically from the gates. Therefore, I intend to issue a split decision in this case and grant planning permission for the gateposts. I conclude that Appeal A on ground (a) succeeds in part and only insofar as it relates to the gateposts.

Appeals on ground (f) (Appeals A and B)

16. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
17. Section 173 of the Town and Country Planning Act 1990 (as amended) indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach. In this case the purpose of the notice is to remedy the breach of planning control.
18. The appellants' case is that the development enhances the character and appearance of their property and should be allowed to remain. These arguments are more suited to ground (a) and have been considered under that ground of appeal. However, it can be seen from my decision on ground (a) that I have granted planning permission for the gateposts and the appellants are therefore now able to rely on the operation of section 180 of the 1990 Act. Section 180 states that where, after the service of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
19. However, nothing short of the complete removal of the gate and gateposts, including the intercom and fittings would remedy the breach of planning control alleged in the notice and the steps required are not excessive to achieve that purpose. The appeals on ground (f) therefore fail.

Overall Conclusion

20. For the reasons given above I conclude that Appeal A should succeed in part only, and I will grant planning permission for the installation of the gateposts, but otherwise I will uphold the notice with a correction and refuse to grant planning permission in respect of the installation of the gates. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.

Elizabeth Pleasant

INSPECTOR