



Appeal Decision

Site visit made on 13 July 2020

by K R Saward Solicitor

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Appeal Ref: APP/H1515/C/20/3246522

Langdon House, Church Street, Blackmore, Ingatestone, Essex CM4 0RN

- 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 Mr John Mchale against an enforcement notice issued by Brentwood Borough Council.
 - The enforcement notice was issued on 21 January 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a front boundary wall and gates in excess of 1 metre in height (as hatched on the plan attached to the notice).
 - The requirements of the notice are:
 1. Demolish the front boundary wall and gate (as hatched on the plan attached to the notice).
 2. Remove all materials and debris resulting from step 1 from the site.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls 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 1990 Act as amended for the development already carried out, namely the erection of a front boundary wall and gates in excess of 1 metre in height on land at Langdon House, Church Street, Blackmore, Ingatestone, Essex CM4 0RN referred to in the notice.

Preliminary Matters

2. Two other appeals were also brought on ground (a) alone against the same enforcement notice. They lapsed following non-payment of the prescribed fees.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the surrounding area and the character or appearance of Blackmore Conservation Area.
4. The enforcement notice quotes advice from the Council's Conservation Officer to the effect that the development is also harmful to the setting of nationally designated buildings including nearby Grade II listed buildings. This is not explicitly identified as a reason for issue of the notice. Nor is it given as a reason why the Council considered it expedient to issue the notice in its

delegated officer's report. Nevertheless, when considering whether to grant planning permission for development which affects a listed building or its setting there is a statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting. In arriving at my decision, I shall therefore consider the effect on the setting of listed buildings.

5. Conservation Areas are also designated heritage assets. There is similarly a duty pursuant to section 72(1) of the said Act to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas.

Reasons

6. The appeal property is a two storey detached dwelling of brown brick construction in simple architectural style said to date from the 1970's. It is located along Church Street lying within the Conservation Area and outside the areas allocated for development within the Council's development plan. Church Street itself is a relatively narrow road comprising a mix of historic buildings with more modern infill. Several buildings in the street are heritage listed although Langdon House is among a row of four detached houses which are not. Directly opposite there is a row of Grade II listed buildings including Jericho Priory with the listed Church located at the very end of the cul-de-sac. The appeal property is therefore viewed in this context.
7. The enforcement notice concerns the erection of a high front boundary wall on each side of the entrance to the driveway with metal gates in between. As there are no pavements, the wall is immediately adjacent to the road.
8. A much older and longer red brick boundary wall remains along the rest of the front boundary. Photographs illustrate how there was previously a high wall angled into the property with metal recessed gates where the development now stands. The replacement has the appearance of tall brick piers albeit one side is wider than the other. It is higher than the existing wall but around the same height as the one abutting it at the neighbouring property. According to the appellant, the old wall was rebuilt in 2019 because of its instability giving rise to a health and safety issue. Photographs show how the replaced wall did not match the main front wall differing appreciably in type and colour. Unattractive cement 'buckets' stood atop the piers. This mis-match and design would not have been a positive feature in the road.
9. However, that would not negate the need to ensure their replacement was of good design and in keeping with the locality in order to preserve or enhance the Conservation Area and the setting of heritage assets. Great weight must be given to their conservation. The setting of a heritage asset is defined in the Glossary to the National Planning Policy Framework ('the Framework') as the surroundings in which a heritage asset is experienced. Given the close proximity to listed buildings and how both sides of the street are viewed together, the front boundary may be regarded as being within their setting.
10. High red brick boundary walls are a feature in the street scene along this stretch of Church Street. An even higher old brick wall extends for some way beside the road directly opposite the appeal site. Most of the walls appear old given their condition, but there is another example nearby of a relatively new looking red brick wall with high pillars and black metal gates at 'Atherton

House'. The height and type of wall is not therefore out of keeping in its environment and there are similarly other walls which are staggered in height.

11. The appellant acknowledges that the new wall is lighter in colour than the existing walls. That is unavoidable because it is far newer and has not yet weathered in the same way as the other walls which are covered with lichen. There is not wide disparity in colour. Once the brick becomes worn over time after exposure to the elements it will blend in further. The new wall is not a large part of the frontage. The double metal gates across the driveway are a fairly traditional decorative arched design in an innocuous grey colour. They are set back slightly from the street. When the wall and gates are viewed together in context, they are not obtrusive in the street scene nor do they detract from the setting of any listed building to give rise to harm.
12. I find that the development does not have an adverse effect on the character and appearance of the surrounding area. Both the character and appearance of Blackmore Conservation Area are preserved. Thus, there is no conflict with Policies CP1 and C14 of the Brentwood Replacement Local Plan, 2005 which seek a high standard of design which preserves or enhances the area and uses materials sympathetic to the surrounding buildings and appropriate to the area.
13. Nor is there conflict the similar aims of Paragraph 124 of the Framework which promotes good design and Paragraph 127 which, among other things, seeks development which is sympathetic to local character and history including the surrounding built environment.

Conclusion on ground (a) and the deemed planning application

14. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal on ground (a) and the application for deemed planning permission should succeed.
15. The Council has not suggested any conditions in this eventuality and there are none that I consider necessary given that the wall and gates exist already.

KR Seward

INSPECTOR