



Appeal Decision

Site visit made on 4 October 2021

by **Peter D Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021.

Appeal Ref: APP/C1570/W/21/3276722 70 The Street, Manuden CM23 1DS.

- 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 Timothy Ian Priest against the decision of Uttlesford District Council.
 - The application Ref UTT/21/0530/HHF, dated 18 February 2021, was refused by notice dated 20 April 2021.
 - The development proposed is removal of existing leylandii hedge to boundary with public road and replacement with brick wall with flint panels.
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Decision

1. The appeal is allowed and planning permission is granted for removal of existing leylandii hedge to boundary with public road and replacement with brick wall with flint panels at 70 The Street, Manuden CM23 1DS in accordance with the terms of the application, Ref UTT/21/0530/HHF, dated 18 February 2021, and subject to the conditions at Schedule A.

Preliminary Matter

2. In the period since the appeal was submitted the Government has published a revised version of the *National Planning Policy Framework* (The Framework). The revised Framework has not brought me to any different decision on the appeal and therefore I have not considered it necessary to invite the appeal parties to comment on the new document.

Main Issue

3. The main issue is the effect of the proposed development on the established character and appearance of the Street and the Manuden Conservation Area.

Reasons

4. The appeal site lies on the north-east side of The Street which is comprised of a mix of property styles. The appeal property itself at No 70 does not lie within the Conservation Area but the boundary runs along the property boundary along the back of footpath and therefore the proposed wall would be within the Conservation Area. Property boundaries within the Conservation Area are comprised of a mix of fences, hedging and walling. Some of the walls particularly those at Nos 62 and 64 the Street, on the corner of Butt Lane and at No 2A Mailers Lane are built of red brick piers and top and base courses with central sections constructed in flint. The boundary of No 70 currently comprises

a mix of modern brick walling and gate piers, wooden fencing with trellis top and Leylandii hedging which has grown to in excess of 3 metres.

5. The proposal, as stated in the Draft Planning Outline and in the plans would remove all the current boundary treatments and replace these with a stock brick and flint wall to a height of 2 metres.
6. It has been put to me that two aspects of the proposal – the proposed materials and the height of the wall would result in harm to the character and appearance of the Conservation Area.
7. Regarding the materials, as stated above, boundary walls of red brick and flint infill are a feature of the Conservation Area and these materials would be appropriate for the boundary wall. Although the proposal was to use stock bricks the use of a red brick more in keeping with existing walls in the conservation Area could easily be conditioned and indeed the appellant has indicated that he would not be averse to this change. Equally, ensuring that the flint panels are constructed using traditional methods and are not simply pre-fabricated panels is a matter that could be secured by condition specifying the method of construction therefore I am satisfied that in respect of materials and construction an appropriate form of wall construction could be achieved that would be in keeping with the Conservation Area.
8. In respect of the height of the wall the stated height of the wall in the plans and Draft Planning Outline originally submitted is proposed to be 2 metres. Whilst the Council made its decision based on this height it is clear from subsequent negotiation with the Council that the appellant would be prepared to revise the height of the wall to 1.8 metres. I consider this would constitute a minor change to the proposal and unlikely to prejudice the rights of third parties given that no third party objections were received to the higher wall. I have therefore assessed the appeal on the basis that the height of the wall would be 1.8 metres which, if the appeal is allowed, could be controlled by condition.
9. It has been put to me that, where they occur on front boundaries within the conservation area, walls tend to be lower, affording views over to properties and gardens behind and that the enclosing effect of higher walls would be damaging to this openness.
10. It was apparent from the site visit that this is not entirely the case. In the immediate vicinity of the site at Nos 66 and 62 the street I accept that there are front boundary walls at this slightly lower height. However, equally, there are higher walls at 1.8 metres in height just south of the junction of Butt lane and The Street, at No 2A Mailers Lane diagonally opposite the appeal property and, recently constructed, at No 64 The Street. I have been invited to conclude that in respect of Mailers Lane the case is different because the wall screens a private garden and is not simply screening off a front courtyard and entrance. However, whilst this may be the case, in terms of establishing a character to the Conservation Area this functional distinction in the purpose of the wall makes no difference. Thus, as higher boundary walls are already a feature in the vicinity of the appeal site, I am not persuaded that the proposal would be as harmful as suggested.
11. For two other reasons a higher wall than the Council proposes at No 70 would not be inappropriate. First, approximately one third of the frontage length is already taken up by the appellant's workshop building which sits immediately

behind the existing fence and already presents a walled façade and pitched roof to The Street. Secondly, the high mature leylandii hedge, which I estimate is between 3 to 4 metres in height, acts as a dense screen along the frontage and is a somewhat alien and suburban feature in the rural street scene. In comparison to the existing situation therefore, the removal of the hedge and installation of the wall at 1.8 metres in height would actually result in a more open appearance in views to the property along the street certainly along the section currently hedged.

12. Moreover, the existing boundary treatments at No 70 comprising suburban style fencing, modern brick walling and in particular the tall leylandii hedging comprise a less than attractive mix of features in the street scene. This would be improved by their removal and construction of a traditional style of walling in appropriate materials albeit at a slightly greater height than the Council considers appropriate.
13. I have been referred to the presence of a listed building opposite the appeal site which it is considered would be adversely affected by the proposal. However, as the listed building sits immediately adjacent to a long stretch of 1.8 metre high brick and flint walling turning the corner into Mailers Lane I am not persuaded that a similar style and height of walling opposite at No 70 would amount to harm to the setting of the listed building.
14. For the reasons above, the proposed wall, provided it was to be appropriately constructed and in materials complementary to the Conservation Area and restricted in height to 1.8 metres would not harm the significance of the Conservation Area or the setting of the listed building. I am satisfied that the changes would have a neutral effect on the character and appearance of the heritage assets and as such they would be at least preserved. Accordingly, the proposal would comply with both the requirements of the Framework at section 16 in respect of the historic environment and also with the *Uttlesford Local Plan* (ULP) at Policy ENV1 which seeks to preserve or enhance the character and appearance of the essential features of the Conservation Area. Similarly, in view of my conclusion that the proposal would not be inappropriate to the character of the area, it would not conflict with the ULP at Policy GEN2 which requires development to be compatible with the scale, form, layout, appearance and materials of its surroundings.

Conditions and Conclusion

15. The Council suggested a number of conditions, which I have considered in the light of the advice in the Framework and *Planning Practice Guidance* (PPG). A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty. However certain elements of the plans in respect of the height of the wall and its materials and method of construction require to be varied in order to protect the character of the Conservation Area. Further conditions are necessary to resolve these issues. The Council proposed a wording for one additional condition in its questionnaire in the event the appeal was allowed. However, the wording is unsatisfactory in that it is imprecise and would be incapable of enforcement. The appropriate way to control these matters, in order to meet the tests set for conditions in the PPG, is by two conditions, one requiring the submission of full details regarding materials and method of construction for the wall to be approved by the Council, the other to specify the maximum height to which the wall can be built.

16. Given that the appellant has indicated in his statement that he was happy to construct the wall in red brick to the specification of the Council, that the flint panels would not be prefabricated and that he was happy to accept a height restriction of 1.8 metres I do not consider that the additional conditions would come as a surprise to the appellant. It is not therefore necessary to go back to the appellant to consult on the two additional conditions.
17. I have considered the matters before me and, for the reasons given above, I conclude that the appeal should be allowed and permission granted for the boundary wall subject to the conditions set out in Schedule A below.

P. D. Biggers

INSPECTOR

Schedule A – Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of approval.
- 2) The development hereby permitted shall be carried out in accordance with the Draft Planning Outline – Description of development and the following approved plans: Location Plan Dated 26-02-21; Site Plan Dated 26-02-21; Proposed Plan and Elevation Dated 26-02-21.
- 3) Notwithstanding condition 2) [i.e. the condition requiring that the development is carried out in accordance with the approved Draft Planning Outline and plans] no development shall take place until details of the materials (including the proposed brick, flints and mortars) and the method of construction for the wall have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 4) Notwithstanding condition 2) [i.e. the condition requiring that the development is carried out in accordance with the approved Draft Planning Outline and plans] the boundary wall hereby permitted shall not exceed a total height of 1.8 metres above the level of the existing footpath.