



Appeal Decision

Site visit made on 9 November 2021

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2021

Appeal Ref: APP/W1715/C/21/3279120

Land at Fairport House, Lands End Road, Bursledon SO31 8DN

- 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 Mark Keeling against an enforcement notice issued by Eastleigh Borough Council.
- The enforcement notice was issued on 30 June 2021.
- The breach of planning control as alleged in the notice is without planning permission the addition of fencing of 0.55 m in height affixed to the top of the existing boundary wall.
- The requirements of the notice are: 5.1 Remove the unauthorised fencing affixed to the boundary wall abutting Lands End Road. 5.2 Remove all waste, materials, equipment and debris arising from compliance with point 5.1 above.
- The period for compliance with the requirements is three 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.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Procedural Matter

1. The revised National Planning Policy Framework (the Framework) came into force during the course of the appeal. The main parties have had opportunity to comment on any implications of the revised Framework for the appeal and I have also taken it into account in my decision.

Ground (a) Appeal

Main Issue

2. The main issue is whether the fencing preserves the character or appearance of the Old Bursledon Conservation Area (CA).

Reasons

Character or appearance of Old Bursledon CA

3. The significance of the CA derives in no small part from the historic associations of the village with riverside industry, together with the loose-knit development of varying character arranged along often narrow and winding country lanes bounded by verges, banks, hedges, brick walls and fences, and the strong landscape of trees. The above reflects the Council's Conservation Area Appraisal and Management Proposals Supplementary Planning Document (SPD), which also points to brick walls forming front boundaries as making a significant contribution to the character of the CA, providing visual continuity

and added interest to different parts of the area. Furthermore, the above characteristics are consistent with those of the Special Policy Area in the Eastleigh Borough Local Plan Review 2001-2011(LP).

4. The appeal site contains a detached dwelling and its associated outbuildings. The site is located towards the far end of a narrow lane, close to slipways which provide access to the river Hamble, with fields beyond. A lengthy, weathered red brick wall around 1.8 m high runs along the site frontage with the lane. The appeal fencing has been erected on top of the wall, along almost its entire length. Although the greater part of the fencing is close boarded, towards the far end of the frontage a portion has been modified to a post and rail type.
5. There is a straggle of mainly residential properties along the lane. For the most part, the front boundaries of these properties consist of reasonably tall walls constructed in a similar shade of brick, set back from the lane behind narrow verges. Maturing planting adjacent to the walls is also often apparent and has a softening effect on the frontages. The walls, verges and planting, the limited width of the lane and the loose-knit pattern of development, together with glimpsed views of the river and undeveloped land nearby, all contribute to a secluded and semi-rural feel in the vicinity of the site. Although noise and disturbance from a pub further along the lane as well as from passers-by accessing the riverbank is likely at times, the effect of such activity on the visual character of the locality is limited. The site and its environs therefore share many of the visual qualities which combine to make up the informal enclosed character of the CA identified in the SPD, thereby contributing positively to the significance of the designated heritage asset.
6. The timber construction and use of a dark coloured finish gives the fencing a significantly different appearance to that of the frontage wall. The result is an awkward juxtaposition of materials and colour finish, which is emphasised by the extensive length of the fencing and its elevated position on top of the wall. This applies equally to the close boarded part of the fencing and the modified post and rail part. As larger dark coloured structures in the vicinity are mostly set back from the lane, the fencing colour is also appreciably different to that of the majority of nearby frontage boundary treatments. Consequently, the fencing does not integrate visually with the wall or with other frontages and it appears as an obvious, alien feature in views along the lane.
7. Furthermore, the overall height and length of the fencing has considerably increased the visual presence of tall, solid boundary enclosures in the lane. Together with the corresponding reduction in outward views and an absence of any significant softening planting, this has created a noticeably more harsh and built-up feel in the locality. This is entirely at odds with the semi-rural, informal enclosure which is characteristic of the CA. As most of the fencing remains close boarded, modifying a portion to post and rail has not addressed this matter satisfactorily. I understand that the appellant previously removed ivy and other overgrown planting from on and in front of the wall. However, any improvement to the appearance of the wall and its environs in this respect does not offset the harmful visual impact of the fencing.
8. There are incidences of frontage brick walls with close boarded fences above in the CA. These include along the lane at 'The Anchorage', as well as at properties on High Street and at 'Ladymead' on School Road. However, in the main those enclosures are appreciably lower compared to the fencing, whilst

their more naturalistic colours do not contrast so obviously with the wall finishes. Also, at 'Ladymead' substantial maturing planting dominates the fence backdrop. The SPD does not indicate that the 'Ladymead' fence contributes to local character. Consequently, none of those developments compare with the fencing. In any event, the mere existence of outwardly similar development is not a good reason for permitting the fencing. Without further details I cannot be certain that other fences originated in circumstances similar to those in this appeal. For instance, it was unclear whether any of the above fences benefitted from planning permission. As a result, I afford those developments limited weight.

9. Therefore, the fencing does not preserve the character or appearance of the CA, failing to accord with LP Policy 169.LB and, by not respecting the character of the Special Policy Area, LP Policy 179.LB. Also, the fencing does not accord with criterion in LP Policy 59.BE, as it is not appropriate to the character and appearance of the area in terms of materials, design and siting. Although the LP is of some age, these policies are consistent with the revised Framework. As the emerging Eastleigh Borough Local Plan 2016-2036 has not progressed to adoption, it is possible that policies DM1 and DM12 will be subject to further modification. Therefore, I give these policies limited weight.

Other matters

10. I understand that the appellant erected the fencing for reasons of privacy and security following incidences of theft and trespass at the site and anti-social behaviour in the locality. The appellant's wish to protect their property and prevent further such incidents occurring is entirely understandable. However, I am not convinced that the fencing acts as an efficient deterrent in the above respect, or that alternative measures-for example planting tall shrubs inside the boundary wall-would not achieve a similar aim. Therefore, this matter carries limited weight.

Planning Balance & Conclusion

11. The fencing does not preserve the character or appearance of the CA, it does not accord with the Development Plan and is inconsistent with the SPD, as well as the Framework. The fencing causes less than substantial harm to the significance of the designated heritage asset. The revised Framework advises that such harm should be weighed against any public benefits. It also advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to that asset's conservation. The benefits of erecting the fencing are largely limited to the appellant and their family and are in consequence private. The fencing does not provide any public benefits. Therefore, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant permission on the deemed application.

Formal Decision

12. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended.

Stephen Hawkins INSPECTOR