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## Appeal Decision

Hearing held on 17 May 2022

Site visit made on 16 and 17 May 2022

**by Rachael Pipkin BA (Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 May 2022**

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**Appeal Ref: APP/Y3615/W/21/3278666**

**Land at the entrance to Effingham Place, Effingham, Leatherhead KT24 5JT**

- 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 T Baumann on behalf of the Residents of Effingham Place against the decision of Guildford Borough Council.
  - The application Ref 20/P/01174, dated 13 July 2020, was refused by notice dated 3 February 2021.
  - The development proposed is erection of black painted, metal, automated vehicle access gates and separate side pedestrian access gate on Effingham Place, set back a minimum of 15 metres from Lower Road.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of black painted, metal, automated vehicle access gates and separate side pedestrian access gate on Effingham Place, set back a minimum of 15 metres from Lower Road at Land at the entrance to Effingham Place, Effingham, Leatherhead KT24 5JG in accordance with the terms of the application, Ref 20/P/01174, dated 13 July 2020, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan - 001, Unnumbered Site Plan, Existing and Proposed Block Plan – E.01.B and Proposed Gates – P.03.
  - 3) No development shall take place until full details of the electrical source, where it will be provided from and how it will be connected to the gate have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

### Main Issues

2. The main issues are the effect of the proposed development on:
  - the Effingham Conservation Area;
  - the setting of a Grade II listed building; and
  - the character and appearance of the area, with particular regard to its effect on social cohesion.

## Reasons

### *Effingham Conservation Area*

3. Effingham Place is a narrow, cul-de-sac and a private road which serves seven residential properties. At its far end there is a substantial Grade II Listed Building, Effingham Lodge, which has been subdivided to form two separate dwellings, Marlborough House and St Lawrence House. The appeal site comprises the roadway at the entrance to Effingham Place and a small area of adjacent land.
4. Numbers 1-4 Effingham Place (Nos 1-4) are more recent developments. They were granted planning permission<sup>1</sup> in the 1990s as enabling development to secure the retention of Effingham Lodge, which at that time, was in a state of disrepair and likely to be demolished. Lodge Cottage lies at the entrance to Effingham Place and, the parties agree, would have historically served as a gatehouse to Effingham Lodge when it was a single dwelling.
5. Effingham Place is located towards the north-eastern corner of the Effingham Conservation Area (ECA) with land opposite and to the east, which is occupied by a secondary school, lying outside the ECA. The draft Effingham Conservation Area Appraisal 2020 describes key defining characteristics of the ECA as its rural surroundings and the survival of its original pattern of development and its historic fabric which includes a few surviving large estate houses.
6. Through its retention of the historic pattern of development associated with a large estate house, Effingham Place contributes to the significance of the ECA. Historic maps indicate that the cul-de-sac broadly aligns with the line of the original driveway to Effingham Lodge. This would have entered Lower Road with an open rural landscape beyond. This makes a positive contribution to the ECA.
7. Within Effingham Place, the modern development and cul-de-sac layout gives the area a more suburban character. As a private road with properties enclosed by tall boundary hedges and fences, there are limited views along the historic driveway from the public domain and no views of the listed building. Some of the more modern houses on the cul-de-sac are, however, visible above the boundary to Lower Road. In this regard, the existing entrance, whilst not unattractive, does not provide any visual clues as to its historic significance. Thus, whilst the retention of the historic pattern of development are positive aspects, at the entrance to Effingham Place where the appeal site is located, I find the site's contribution to the ECA to be neutral.
8. Furthermore, planning permission has been granted on the open land opposite Effingham Place for a replacement secondary school and up to 159 housing units, with a subsequent application pending for an additional 110 units. This area of land is fenced off pending commencement of development. Once the new school has been completed, the existing school, directly to the east of Effingham Place, will be redeveloped with 99 residential units. These nearby developments will inevitably change the relationship between Effingham Place and the surrounding area, significantly reducing both the open character opposite its entrance and its rural setting. In my view, this would erode the significance of the ECA around Effingham Place.

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<sup>1</sup> Council Ref: 93/P/00215

9. The installation of gates to Effingham Place would enclose the historic driveway. I discuss the historical accuracy of this proposal later in my decision. However, the principle of enclosing a large estate house would not be alien within the ECA.
10. The village and the ECA lie within an open and rural setting, as recognised by Inspectors in previous appeals<sup>2</sup> to which I have been referred to. I observed that throughout the village many properties are enclosed by high flint or brick walls, fences and behind gates. Whilst these appear to serve individual properties rather than multiple ones, the enclosure of Effingham Place in the context of it having been historically a single dwelling would not be harmful to the significance of the ECA.
11. The Effingham Neighbourhood Plan 2016: Village Design Statement advises that automated 'compound style' gates should be avoided. This is to promote a sense of openness through open views of fields and lack of visual barriers. However, Effingham Place is already relatively enclosed by domestic hedges and fences and, following the development on the opposite side of Lower Road, will soon have views onto a large, modern housing development. In these circumstances, the installation of gates would not be harmful.
12. Development within the ECA follows a linear pattern along the main roads through the village. Nevertheless, there are a number of cul-de-sac developments off both The Street and Browns Lane as well closer to the appeal site at Lutyens Close. This pattern of development provides a much less permeable environment and does not encourage movement through the area. Effingham Place displays these characteristics.
13. I appreciate that other cul-de-sacs within the ECA are not gated. However, it was confirmed at the hearing that these do not have the same historic context as Effingham Place. In view of this, I do not consider that the introduction of gates to Effingham Place would particularly open the door to other such development within the ECA.
14. The gates themselves would not be widely visible from the surrounding area due to their recessed position from the public highway. However, they would be seen frequently due to the number of pedestrians and vehicles passing along Lower Road. The gates would therefore be noticeable. However, as they would help to redefine the heritage asset, in terms of the ECA I do not consider that they would be harmful.
15. The same scheme was applied for and refused in 2013. Since then the circumstances, including the planning policy context of the site, has changed with Effingham Village being inset from the Green Belt. Whilst some residential development appears to have come forward as a consequence of this change, the removal of the village from the Green Belt does not provide a carte blanche for development proposals which are, and would continue to be, subject to consideration against other development plan policies, including those relating to heritage assets. This point was recognised by an Inspector in dismissing an appeal<sup>3</sup> at Land at Church Street, Effingham where a similar argument had been made about the changed context given the removal from the Green Belt.

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<sup>2</sup> APP/Y3615/W/18/3200626, APP/Y3615/W/16/3151098

<sup>3</sup> APP/Y3615/W/21/3276229

16. Nevertheless, I have found that in the context of this appeal, the development that will imminently come on stream on land opposite will alter the setting of ECA, further eroding the historic link between Effingham Place within the ECA and the rural landscape.
17. I have paid special attention to the desirability of preserving or enhancing the character or appearance of ECA, as required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). I conclude that the proposed development would preserve and enhance the character and appearance of the ECA.
18. It would therefore comply with Policies D1 and D3 of the Guildford borough Local Plan: strategy and sites 2019 (the LPSS), Saved Policies G5 and HE7 of the Guildford borough Local Plan 2003 (the LP) and Policies ENP-G2 and ENP-G3 of the Effingham Neighbourhood Plan 2018 (the ENP). These policies together require a high quality of design that responds to the distinctive local character, for the historic environment to be conserved and enhanced in a manner appropriate to its significance, for development to enhance the special interest of the heritage assets, to preserve or enhance the character or appearance of the conservation area, respect the relationship with other buildings, reflect the layout and character of the historic settlement form of Effingham. It would also comply with the National Planning Policy Framework (the Framework) which requires great weight to be given to the asset's conservation.
19. I have found no specific conflict with Saved Policy G1 of the LP which sets out general standards of development but does not directly relate to development affecting heritage assets.

*Setting of the listed building*

20. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced, recognising that this is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
21. Historic mapping indicates that Effingham Lodge would have sat within extensive grounds, including orchards and parklands. A driveway ran north-east from the building to Lower Road which the present day cul-de-sac broadly aligns with. It appears that this was the primary entrance to Effingham Lodge until a new grand entrance to the east was opened up.
22. The parties agree that there would have been some form of enclosure to this driveway. Evidence of this was discovered during enabling works in 1993 for the development of Nos 1-4 when gate piers were found although it appears no gates were in situ at that time. The position of these gate piers and the maps indicate that the gate was probably positioned where there is currently a rumble strip towards the entrance to the cul-de-sac.
23. The historic legibility of the site has been significantly eroded by various development within its curtilage, including the four dwellings constructed in the 1990s as well as the more recently installed gates to Marlborough House. Whilst the need for these dwellings is recognised, they do not appear as curtilage structures due to their modern appearance and their function as

separate dwellings, each with its own drive, garage and garden. Nevertheless, they are set away from the listed building with boundary vegetation reducing their prominence within the site and ungated accesses which assists in keeping some of the historic legibility of the site intact.

24. The installation of a gate, such as might have existed, would help to reinforce the extent of the grounds in which the listed building would have sat when it was a single dwelling. In such circumstances, it seems to me that there would be some benefit in the installation of a gate in assisting in better revealing the significance of the heritage asset, which as I discussed earlier in my decision, is not perceptible in public views from Lower Road. Such an approach is advocated in paragraph 206 of the Framework which supports opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance.
25. Historic England's draft guidance relating to the reconstruction of heritage assets<sup>4</sup> sets out a number of factors that should be taken into account in deciding whether or not to reconstruct heritage assets. This includes having a sufficiently good record of the asset prior to damage or destruction to enable accurate reconstruction rather than speculative recreation, an understanding of the relative significance of the elements proposed for reconstruction, ensuring that the reconstructed elements are distinguishable as a reconstruction, and using materials and methods of construction based on conservation planning and values based assessment so that they truthfully reflect and embody the cultural heritage values of the place.
26. The Council agreed that the installation of a gate could be of benefit in understanding the historic significance of the asset, particularly given the extent to which the setting has been eroded by other development. However, that benefit would depend upon the accuracy of the installation taking into account Heritage England's guidance.
27. The proposed gates would not align with the historic position of the gates which were closer to the junction with Lower Road. The appellant emphasised that he does not wish to reconstruct the heritage asset but seeks to sympathetically reinforce the historic plot and redefine its curtilage. I appreciate that the recreation of historic features can undermine the ability to understand and appreciate the past. However, in the circumstances here, the recessing of the gates which the appellant explained was for highway safety purposes, would not be so fundamentally different from their original position as to confuse the understanding of the past. Indeed, I have already found it would help reinforce the existence of the listed building.
28. There is no evidence available to inform the appearance, material palette, craft and scale of the original gates and their piers. This is not disputed. The Council consider that in the absence of this the proposal would amount to speculative recreation of the heritage asset but nevertheless agreed that the proposed design, would be a reasonable design for a building of this age.
29. In design terms, the proposed gates, which would be constructed of metal and painted black, would be similar to entrance gates installed at Marlborough House to which the Council granted consent in 2017. Having allowed this, it is evident that the Council has previously accepted such a design, in much closer

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<sup>4</sup> Historic England Advisory Note on the Reconstruction of Heritage Assets HO-J Draft 01042016

proximity to the listed building itself. In these circumstances, whilst appreciating that the original design is unknown, the design of the gates would be acceptable. Furthermore, given that the appellant is not seeking to reconstruct the asset, but to sympathetically provide it, the gates would be distinguishable from the heritage asset. With electrical operation the gates would be more apparent as a later addition.

30. I recognise that at the time of the enabling development in 1993, the historic gate piers appear to have been removed. This may suggest that their architectural or historic significance was considered to be not as important as some other historic fabric on the site, at a time when the curtilage of the property was more historically complete.
31. I do not have the full details of that enabling scheme and the circumstances at the time. However, it seems to me that when the enabling development came forward, the retention of the listed building itself was in question. In such circumstances, it is understandable that the gate piers may have been considered less important and their removal potentially outweighed by the enabling development. This does not mean that the piers were not important to the setting of the listed building.
32. In addition to its concerns about the location and design, the Council is concerned that the presence of gates to Marlborough House would confuse the legibility of the site. Both parties agree that the gates to Marlborough House are historically inaccurate in terms of location. The Marlborough House gates are only visible from within the cul-de-sac. Therefore, the two sets of gates would not be seen together. I nevertheless acknowledge the Council's point about legibility but find that this would not make the provision of a gate closer to the historic entrance of the listed building inappropriate.
33. There is no conclusive evidence to suggest that the unauthorised activity along Effingham Place which includes disturbances from people and vehicles entering the private cul-de-sac has resulted in direct harm to the heritage asset. I therefore give this limited weight.
34. Drawing together my assessment, I have found that the setting of the listed building has changed over time, with certain developments taking place within it that have eroded the significance of the heritage asset. The installation of gates, in a design that would be appropriate to the age of the building, would be sympathetic to and would help to reinforce the historic curtilage of the listed building. It would be apparent that the gates are more recent additions due to their design and electrical operation. In these circumstances, despite being recessed a little further into what would have been the driveway serving Effingham Lodge, I find the proposal would not harm the setting of the listed building. It would also deliver a benefit in terms of better revealing the building's significance.
35. In this context, the proposed development would help to preserve the setting of the listed building, as required by Section 66(1) of the Act which requires that special regard must be given to the desirability of preserving a listed building or its setting.
36. I conclude that the proposed development would not harm the setting of the listed building. It would therefore comply with Policies D1 and D3 of the LPSS, Saved Policies G5 and HE4 the LP and Policies ENP-G2 and ENP-G3 of the ENP.



These policies together require a high quality of design, for the historic environment to be conserved and enhanced in a manner appropriate to its significance, for development to enhance the special interest of the heritage assets and their settings, respect the relationship with other buildings, reflect the layout and character of the historic settlement form of Effingham. It would also comply with the Framework which requires great weight to be given to the asset's conservation. For the reasons stated above, I have found no specific conflict with Saved Policy G1 of the LP.

### *Social cohesion*

37. The Framework sets out at paragraph 92 that planning decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meeting people who might not otherwise come into contact with each other and are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.
38. The National Design Guide 2021 (the NDG) expands upon this, emphasising that good design promotes social inclusion by creating neighbourhoods that are suitable and accessible for all and avoiding features that could create actual or perceived barriers, or contribute to segregation, both within the development and with its surroundings.
39. The installation of the proposed gates would physically separate Effingham Place from the wider village. This would effectively create a gated residential enclave. However, Effingham Place has a very private feel already due to the narrowness of the access, the domestic hedges enclosing it, the absence of any footpath and the signage which states it is a private road and 'No parking, No turning'. In this regard, it does not invite people to enter the area. It therefore makes a very limited contribution in terms of the opportunities for social interactions or promoting social cohesion.
40. I recognise that the creation of 'gated communities' does not represent good design. Given the existing circumstances of the appeal site, the addition of gates, set some distance down the drive, would not materially increase the perception that this is a private development. It would not therefore increase the extent to which this development is already separated from the wider community. The proposal would however improve the living environment for occupants of Effingham Place who have experienced disturbance by people and vehicles entering the road on what I am told is a regular basis.
41. I have been referred to a development at Avonmor Mews, Portsmouth Road, Ripley<sup>5</sup> where the Council granted planning permission to erect electronic gates between existing brick pillars enclosing nine properties. Whilst each case must be determined on its own merits, I find that the circumstances in that case and the one before me are very similar. This adds weight to my view that in the circumstances of the appeal site, such a development would not be harmful.
42. Effingham Place feels secluded. It has little in terms of natural surveillance due to the presence of boundary hedges, the set back of properties from the road, with no through traffic and being a private road. In this regard, I have some sympathy with occupants who have evidently experienced a degree of

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<sup>5</sup> Council Ref: 17/P/00454

disturbance and raised concerns about safety. This adds to my view that in the circumstances of the appeal site, the provision of gates would be appropriate.

43. The Council has referred me to various appeal decisions<sup>6</sup> where Inspectors have concluded that the installation of such gates would be harmful to social cohesion. Whilst these decisions are noted, each case must be determined on its own individual merits, having regard to its own circumstances. I have found that the circumstances of the appeal site, justify the installation of the proposed gates.
44. I appreciate that the Council considers the installation of gates to the road to be an extreme approach to addressing the problems experienced by local residents. However, in the unique circumstances of the site, I have found the proposal would not be harmful.
45. I conclude that the proposed development would not harm the character and appearance of the area, with particular regard to its effect on social cohesion. It would therefore accord with Policy D1 of the LPSS which seeks a high quality and inclusive design, that create safe and accessible spaces. It would also accord with the Framework and the NDG as referred to above.

### **Conditions**

46. The Council has suggested conditions should the appeal be allowed. I have considered these and imposed them where they meet the tests set out in Paragraph 56 of the Framework, amending where necessary for the sake of simplicity, clarity and precision.
47. A condition specifying plans is necessary to provide certainty. In the interests of the appearance of the development, a condition requiring details of how the electrical source will be provided is necessary and reasonable.

### **Conclusion**

48. For the reasons set out above, I conclude that the appeal should be allowed.

*Rachael Pipkin*

INSPECTOR

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<sup>6</sup> APP/K3415/W/19/3243673, APP/X1925/W/18/3205353, APP/K5600/A/13/2193394



## **APPEARANCES**

### FOR THE APPELLANT:

Charlotte Grant	Planning Consultant
Alison Davidson	Heritage Consultant

### FOR THE LOCAL PLANNING AUTHORITY:

Louise Blaxall	Conservation and Design Officer
Kieran Cuthbert	Planning Officer