



Appeal Decision

Site visit made on 25 April 2023

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30TH MAY 2023

Appeal Ref: APP/J0405/C/22/3293757

Land at Mentmore Towers, Mentmore, Buckinghamshire LU7 0QH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mentmore Towers Limited against an enforcement notice issued by Buckinghamshire Council.
 - The notice was issued on 31 January 2022.
 - The breach of planning control as alleged in the notice is the unauthorised erection of a close boarded timber fence.
 - The requirements of the notice are 1: Demolish the timber close boarded fence in the approximate area cross-hatched on the plan attached to the notice. 2: Permanently remove all timber, fence posts and cement from the land. 3: Back-fill any holes created by the removal of fence posts and cement from the land. 4: Permanently remove any material and debris arising from compliance with steps 1-3.
 - The period for compliance with the requirements is eight weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) 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.
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Decision

1. 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 1990 Act as amended.

Ground (a) appeal

Main Issue

2. The main issue in this ground of appeal is whether the fence conserves the significance of designated heritage assets.

Reasons

Whether the significance of designated heritage assets is conserved

3. Mentmore Towers is one of England's most important Victorian country houses and is a Grade I listed building. The house is on the Historic England register of buildings at risk. The extensive landscaped grounds are a Grade II* listed park and garden. Just beyond the grounds, within the village of Mentmore, is the Parish Church of St Mary, itself a Grade II* listed building. The Grade II listed Church Cottage and 1-3 Laundry Cottages (Nos 1-3), forming part of the estate historically associated with the house, are close to the church.
4. The enforcement notice attacks a timber fence erected on the edge of the grounds, adjacent to the churchyard. The fence runs opposite Nos 1-3 from a

vehicle service entrance to the house to wrap around most of the churchyard. A portion of the fence adjacent to the service entrance and churchyard is close boarded, having a height of about 1.8 m. Although of similar overall height the remainder of the fence is unfinished, being a framework of vertical posts and timber cross rails.

5. The fence is located in part of the surroundings in which the above heritage assets are experienced. It is therefore within the settings of those assets. The close historic and functional relationship between the house, its grounds and the former estate cottages is apparent as is the association between these buildings and the church. Similarities in the age, architectural style and materials of the former estate buildings contributes appreciably to the strong sense of cohesion in visual and aesthetic terms apparent in the locality. Boundary treatments consisting of the low metal rail fencing characteristic of the former estate are also in evidence. Maturing planting, including in the grounds and the churchyard, softens the effect of buildings, it frames views and contributes to the rural qualities of the surroundings. These factors are all positively conducive to the significance of the listed heritage assets. Furthermore, the house, grounds and village are in the Mentmore Conservation Area (CA), the above factors also positively influencing the character and appearance of the CA.
6. Maturing planting assists in limiting views of the fence from the house and grounds. Nevertheless, due to its substantial length, the tall angular profiles and partly solid nature, along with the chunky posts and cross rail members, the fence is seen as an obvious built feature when approaching the cottages and in views from the churchyard. Incidences of similar fencing are typically experienced in a more suburbanised context. The fence has a substantial visual presence which contrasts unfavourably with the limited height, elegant, slender lines and the correspondingly recessive qualities of the metal rail estate fencing. The tall angular profiles of the fence are also entirely at odds with the softer, more naturalistic shapes of maturing planting in the vicinity. Consequently, the fence has given a more built-up, defensive appearance to the boundary between the grounds and the churchyard and it is viewed as an alien feature in the environs in relation to the surroundings.
7. Furthermore, the fence contributes to an appreciable increase in the separation, both in visual and physical terms, of the house and grounds from part of the former estate, making it more difficult to appreciate the relationship between the heritage assets. The length, tall angular profiles and more solid qualities of the fence compared to the metal rail estate fencing has eroded intervisibility between the house and grounds, the cottages and the churchyard. Erecting the fence has also created a solid physical barrier across the pedestrian gateway that previously enabled occupiers of the house to access the churchyard.
8. Climbing plants and other landscape planting would take a considerable period of time to reach maturity and would not sufficiently break up the length, tall angular profile and solid nature of the fence. In any event, the retention and maintenance of such planting could not be secured in the longer term; it could die, become damaged, suffer disease or be removed in future. Therefore, planting would not satisfactorily address the above objections. Reference was made to another timber close boarded fence erected within the grounds.

However, I can only afford that fence limited weight as no record of any planning approval for its erection was drawn to my attention.

9. For the reasons set out above, the fence fails to preserve the settings of the listed heritage assets and it does not preserve the character or appearance of the CA. By not conserving the significance of the heritage assets, the fence is in conflict with Policy BE1 of the Vale of Aylesbury Local Plan (LP), whilst by not respecting and complementing the physical characteristics of the site and its surroundings or the local distinctiveness and vernacular character of the locality, the fence is also in conflict with criteria in LP Policy BE2. Both of these policies are consistent with the approach to conserving and enhancing the historic environment set out in the National Planning Policy Framework (the Framework).

Other Matters

10. I am given to understand that the fence was erected for reasons of security following a number of incidences of trespass, the house currently being unoccupied. Such incidences include persons gaining entry to the house and posting images online, attracting considerable interest on social media. There is potential for damage to historic fabric, theft of fixtures and possible adverse consequences for the significance of the house and grounds arising from such incidents. Also, it is understandable that the appellant would seek to protect their property by trying to prevent further incursions. Nevertheless, there is no firm evidence to suggest that if finished the fence would act as a significant impediment for persons determined to obtain access to the grounds, nor to show that alternatives-for example an increased residential presence, further security patrols or the greater use of electronic surveillance systems-would not be as or more effective. Therefore, I afford this matter limited weight.

Planning Balance & Conclusion-Ground (a)

11. The fence fails to conserve the significance of designated heritage assets, it does not accord with the Development Plan and is inconsistent with the Framework. The harm caused to the significance of the designated heritage assets is less than substantial. The 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 designated heritage assets, great weight should be given to their conservation. Given the questionable effectiveness of the fence in terms of increased security, any public benefit is limited. Therefore, I conclude that the ground (a) appeal should not succeed.

Ground (f) appeal

12. The ground of appeal is that the requirements of the notice are excessive.
13. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring land to its condition before the breach took place as provided by s173(4)(a) of the Act, or it can remedy any injury to amenity which has been caused by the breach as provided by s173(4)(b).
14. The notice requires the fence to be demolished, backfilling of the post holes and removal of the demolition materials. The notice does not require the modification or alteration of the fence in some way, for example by reducing the height or changing the finished colour. Therefore, although the notice does

not state as such, its purpose must be to remedy the breach of planning control by restoring the land to its condition prior to the breach taking place.

15. Landscape planting has been considered in the ground (a) appeal. In the context of ground (f), a step which provided for the fence remaining in situ would sustain the breach and so would not restore the land to its condition prior to the breach taking place. This would not achieve the purpose of the notice. Consequently, undertaking planting does not represent an obvious alternative to the notice requirements. No alternative stopping short of the notice requirements would still remedy the breach.
16. Therefore, the notice requirements are not excessive, they are a proportionate remedy involving the minimum works necessary to restore the land to its condition before the breach took place. The ground (f) appeal fails.

Ground (g) appeal

17. The ground of appeal is that the period allowed for complying with the notice is too short.
18. The remedial works would be of modest scale and would not involve use of specialist plant or equipment. Therefore, the works are likely to be a relatively straightforward job for an experienced fencing contractor. The works are unlikely to take more than a couple of weeks at most to complete. In all likelihood, there are a significant number of contractors with the relevant skills and expertise to undertake the works and who would be available to do so at reasonably short notice. There is no sound reason for the fence to remain during pre-application discussions with the Council concerning an alternative boundary treatment and the processing of a subsequent planning application.
19. Given the above factors, in my view the eight-week period specified in the notice strikes an appropriate balance between affording the appellant a reasonable amount of time to arrange for and have the remedial works carried out, whilst not perpetuating the planning harm identified. Extending the period for compliance to nine months would therefore perpetuate the breach and the associated planning harm.
20. Accordingly, the period for complying with the notice requirements is reasonable and not too short. The ground (g) appeal also fails.

Conclusion

21. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Stephen Hawkins

INSPECTOR