

REPORT SUMMARY

REFERENCE NO - 17/500175/FULL			
APPLICATION PROPOSAL Retrospective temporary security fencing			
ADDRESS Land Adjacent South Cottage High Street Staplehurst Kent TN12 0AD			
RECOMMENDATION – GRANT subject to the planning conditions set out in Section 8.0 of the report			
SUMMARY OF REASONS FOR RECOMMENDATION			
<p>-The temporary security fencing results in less than substantial harm to the setting of local heritage assets, such that for a temporary period of one year to secure the site, it is considered that the harm would be outweighed by the benefit.</p> <p>-The retention of the temporary security fencing for a period of one year would not cause significant harm to the Conservation Area and the street scene, such that the application should be refused.</p> <p>-The temporary security fencing would result in a reversible impact on the character and appearance of the street scene, Conservation Area and setting of the Listed Buildings such that no long-term harm would result.</p>			
REASON FOR REFERRAL TO COMMITTEE Staplehurst Parish Council wish to see the application refused.			
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Mr Nigel Senington AGENT	
DECISION DUE DATE 24/04/17	PUBLICITY EXPIRY DATE 31/03/17	OFFICER SITE VISIT DATE 3/3/17	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
15/506419/FULL	Erection of a pair of semi-detached houses	Refused Dismissed at appeal	29/10/15
MA/14/0791	Application for the erection of 2 two-bedroom houses.	Refused	29/8/14
MA/01/0293	Application for the erection of 1 No. detached dwelling with integral double garage.	Refused Dismissed at appeal	9/5/01
MA/01/0350	Application for the erection of 2 no. detached dwellings with integral double garage.	Refused Dismissed at appeal	30/4/01

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site relates to a parcel of land (approximately 20m x 27m) on the east side of the High Street in the centre of Staplehurst. The site does not have vehicular access onto the main road, which is set at a higher level, and there is pavement and grassed bank between.
- 1.02 There are Grade II listed houses immediately to the north and south and mature trees within the grounds of Loddenden Manor, a Grade II* listed building to the east. The site falls within the Staplehurst Conservation Area.
- 1.03 The site has been cleared of all trees and shrubs and so comprises open grassland. On the front boundary heras fencing has been erected (the subject of this application). The remaining three boundaries of the site are all enclosed with close board timber fencing.

2.0 PROPOSAL

- 2.01 The application seeks retrospective planning permission for the erection of 2m high metal mesh security fencing along the front (western) boundary.
- 2.02 6 panels of fencing have been erected along the western boundary which each measure 3.5m in width and there are also panels on the return, part along the northern and southern boundaries.
- 2.03 Some of the uprights of the fencing panels have been sprayed pink in colour.

3.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Borough-Wide Local Plan 2000: Policy ENV6
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Draft Maidstone Local Plan (2011-2031): Policies SP10, DM1 and DM3
Draft Maidstone Local Plan (2011-2031) (Proposed Main Modifications) : Policies SP10, SP18, DM1, DM3 and DM4
Staplehurst Neighbourhood Plan (2016-2031)

4.0 LOCAL REPRESENTATIONS

4.01 Parish Council

The fencing is detrimental to the conservation area and to an adjacent listed building; the fencing had been erected without permission; the application did not state a reason for the installation of the fencing or for the previous clearance of the site; the site plan was incorrect in its illustration of the location of the fencing. Councillors stated they wished to see the water tank moved to a less obtrusive position and a replacement hedge or a fence of more traditional design

Staplehurst Parish Council further considers that the fence has a seriously adverse effect on the street scene in the Staplehurst Conservation Area and on the setting of listed buildings, the importance of which was emphasised by the Planning Inspector's report on the appeal against refusal of planning permission for application 15/506419/FULL and by the case officer's report on application 15/507585/FULL. We

therefore recommend that the application be REFUSED and that the temporary security fence be replaced as soon as possible by a boundary treatment which is in keeping with the Conservation Area, with the listed buildings adjoining the site and by the existing boundary fences on the other sides of the site.

4.02 Adjoining neighbours were notified of the application. A site notice was also put up at the site.

6 letters of objections have been received in response to the consultation which are summarised as follows:

- Fencing is unsuitable for the area
- Optimistic that the fencing is temporary
- Means of enclosure should be more in keeping with the Conservation Area
- Site location plan is incorrect
- Applications for the site have been previously refused
- Blight on the village
- Unnecessary
- Want trees and hedging to be re-instated
- Listed building consent required
- Conservation Area consent required
- Breaches of planning, removal of original fence, new fence etc.

5.0 **CONSULTATIONS**

5.01 **Conservation Officer** : No objections

6.0 **APPRAISAL**

Main Issues

6.01 It is considered that the key issues are :

- Permitted development and consents
- Impact on Conservation Area, setting of Listed Buildings and street scene

Permitted development and consents

6.02 The Town and Country Planning (General Permitted Development) (England) Order 2015 allows under Part 2 Class A for :

'The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.'

A.1 sets out the conditions, these include :

- (a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after carrying out the development, exceed (ii) in any other case, 1 metre above ground level.*
- (c) the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed whichever is the greater ; or*

(d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.'

- 6.03 The properties to the north and south of the application site are both Grade II Listed Buildings. The application site is separated from both these dwellings by close boarded fencing and is now in separate ownership.
- 6.04 To the north, North and South Cottages were first listed in 1967, known at the time as Loddenden Cottages, 1 and 2 Little Loddenden to the south were listed at a similar time. Historic maps appear to show the application site formerly being part of the curtilage of South Cottage. Earlier Conservation Officer comments also suggest that the application site in conjunction with North and South Cottages once formed part of the Grade II* Listed Loddenden Manor.
- 6.05 There is no formal definition of Listed building curtilage, however Historic England advice suggests that where a site has been sold away after the date of listing of the main house, it is likely that it would still be considered to be treated as part of the listed building at the date of listed and therefore form part of the curtilage.
- 6.06 The date of transfer of the land to separate ownership is unknown, however the likelihood is that it was sold off or became separated later than the listing date of South Cottage in 1967 and as such it is considered that the application site should be considered as part of the curtilage of the Listed Building and as such point (d) above applies and planning permission is required for gates, fencing, walls or other means of enclosure of the land.
- 6.07 Representation refers to the need for Listed Building Consent and Conservation Area Consent. An application is not required in either respect due to the temporary fencing not being attached to any Listed Building and the requirement for Conservation Area Consent as a separate application has been abolished.
- 6.08 Demolition of any wall, gate or fence which is over 1 metre high where abutting a highway, or over 2 metres high elsewhere in a Conservation Area can require planning permission for demolition. Neighbour representation has indicated that the previous means of enclosure was by a 6ft close boarded fence and planting. Photographs of the site prior to removal of the earlier means of enclosure indicate that the fencing was sited behind the planting and thus the fencing in this case would not have been considered as abutting the highway and it is not considered that consent for the removal of the original fencing would have been necessary.
- 6.09 Consent to remove trees in a Conservation Area is required and the applicant did apply for consent under application reference TA/0050/14 to fell 5 cedars, this raised no objection. The conifers along the front boundary were not explicitly part of the notification but it has not been considered expedient to enforce their removal as the trees were not of a quality worthy of retention. The applicant has since planted some replacement trees on the site.
- 6.10 The removal of the previous boundary treatment in itself would not have required consent and as such there is no requirement or action that could be taken to re-instate boundary treatment to the front. Planning permission is however required for any new boundary treatment as discussed above.

Impact on Conservation Area, setting of Listed Buildings and street scene

Policy background

- 6.11 Paragraph 133 of the NPPF sets out that *'Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.'* It is not considered that application will lead to substantial harm to a designated heritage asset.
- 6.12 Paragraph 134 continues by stating *'Where a development proposal will lead to less than substantial harm to the significance of a designated asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.'*
- 6.13 Policy ENV6 of the adopted local plan requires landscape scheme in appropriate cases which includes details of boundary treatment. The policy seeks to incorporate the retention of existing, tree and hedgerows that contribute to the landscape character or quality of the area. Schemes should provide a scheme of new planting of trees, hedgerows or shrubs as appropriate.
- 6.14 Policy DM1 includes criteria to respond positively to and where possible enhance, the local, natural or historic character of the area and provide a high quality design which responds to areas of heritage townscape.
- 6.15 Policy DM3 of the emerging local plan (to be separate policies SP18 and DM4 in the Proposed Main Modifications (PMM)) sets out that proposals should avoid damage to and inappropriate development considered likely to have significant adverse effects on *'Cultural heritage assets protected by international, national or local designation and other non-designated heritage assets recognised for their archaeological, architectural or historic significance, or their setting.'*
- 6.16 Policy SP18 of the PMM reads :
- To ensure their continued contribution to the quality of life in Maidstone borough, the characteristics, distinctiveness, diversity and quality of heritage assets will be protected and, where possible, enhanced. This will be achieved by the Council encouraging and supporting measures that secure the sensitive restoration, reuse, enjoyment, conservation and/or enhancement of heritage assets, in particular designated assets identified as being at risk, to include;*
- 1) collaboration with developers, landowners, parish councils, groups preparing neighbourhood plans and heritage bodies on specific heritage initiatives including bids for funding;*
 - 2) through the development management process, securing the sensitive management and design of development which impacts on heritage assets and their settings;*
 - 3) through the incorporation of positive heritage policies in neighbourhood plans which are based on analysis of locally important and distinctive heritage; and*
 - 4) ensuring relevant heritage considerations are a key aspect of site masterplans prepared in support of development allocations and broad locations identified in the Local Plan.*
- 6.17 Policy DM4 of the PMM relating to development affecting designated or non-designated heritage assets reads :

1. Applicants will be expected to ensure that new development affecting a heritage asset incorporates measures to conserve, and where possible enhance, the significance of the heritage asset and, where appropriate, its setting;
2. Where appropriate, development proposals will be expected to respond to the value of the historic environment by the means of a proportionate Heritage Assessment which assesses and takes full account of;
 - i. any heritage assets, and their settings, which could reasonably be impacted by the proposals;
 - ii. the significance of the assets; and
 - iii. the scale of the impact of development on the identified significance.
3. Where development is proposed for a site which includes or has the potential to include heritage assets with archaeological interest, applicants must submit an appropriate desk-based assessment and, where necessary, a field evaluation.
4. The Council will apply the relevant tests and assessment factors specified in the Framework when determining applications for development which would result in the loss of, or harm to, the significance of a heritage asset and/or its setting.
5. In the circumstances where the loss of a heritage asset is robustly justified, developers must make the information about the asset and its significance available for incorporation into the Historic Environment Record.

6.18 Policy PW4 of the Staplehurst Neighbourhood Plan sets out :

'New developments within Staplehurst must have regard to the historic environment and the heritage that is an integral part of the landscape.'

Appraisal

- 6.19 The application is retrospective and the temporary fencing can be viewed on site. The fencing erected is 2m high metal mesh security fencing, akin to that often used to enclose building sites. Areas have been sprayed pink in colour which attracts slightly more attention to the fencing than if it had not been sprayed.
- 6.20 No heritage statement or other assessment of the impact on Heritage Assets accompanies the application, however the need for such a requirement has to be relative to the nature of the proposal and in this case it is considered that the scheme can be assessed without an independent survey.
- 6.21 It is acknowledged that the security fencing is in contrast to the previous means of enclosure (namely landscaping) however as discussed earlier in this report the previous boundary treatment was lawfully removed and cannot be insisted upon to be re-instated.
- 6.22 It is reasonable for the applicant to want to enclose and secure the site to ensure that the risk of trespassing onto the site is minimised. The land is in private and separate ownership from neighbouring sites. It is currently fully enclosed by close boarded fencing along the northern, southern and eastern boundaries.
- 6.23 The Conservation Officer is satisfied that the visual impact of the fencing is minimal and although the pink paint does draw the eye to the fencing, these areas could be stripped and the paint colour removed (this could be subject to condition). The security fencing is less intrusive than other options such as close boarded fencing which would incorporate solid timber panels and would be more visually prominent.
- 6.24 The temporary fencing would be easily removed from the site, it is not fixed to the ground and in terms of the short term harm that would result is not considered to be

substantial and the less than substantial harm that may result would be reversible and would not be a long-term solution.

- 6.25 The security fencing erected on the site is acknowledged not to be the ideal choice of long-term boundary treatment for the site and if erected permanently would be unacceptable. The application however seeks temporary consent for the fencing and although no period is specified it is considered that a 12month period is considered reasonable. This would allow the applicant to consider his options with regard to the site (which has been subject to a number of refused application and dismissed appeals), secure the site with minimal long-term impact and enable an application for a permanent alternative means of enclosure to be submitted.
- 6.26 It is considered that the security fencing for a temporary period is acceptable and in accordance with current policy and guidance which seeks to protect heritage assets and visual amenity. Subject to conditions and an informative the application is recommended for approval.

Other matters

- 6.27 The application is not considered to have a significant impact on any other material planning considerations and is acceptable in all other respects.

7.0 CONCLUSION

- 7.01 The temporary security fencing results in less than substantial harm to the setting of local heritage assets, such that for a temporary period of one year to secure the site, it is considered that the harm would be outweighed by the benefit.
- 7.02 The retention of the temporary securing fencing for a period of one year would not cause significant harm to the Conservation Area and the street scene, such that the application should be refused.
- 7.03 The temporary security fencing would result in a reversible impact on the character and appearance of the street scene, Conservation Area and setting of the Listed Buildings such that no long-term harm would result.

8.0 RECOMMENDATION

- 8.01 GRANT Subject to the following conditions :

- (1) The development hereby permitted shall be maintained in accordance with the following approved plans:

Block Plan 1:500 (including the one panel return along the southern and northern boundaries)
Plan showing panel detail received 27 February 2017

Reason: To clarify which plans have been approved.

- (2) The security fencing hereby permitted and as shown on the submitted block plan and including the panel returns to the northern and southern boundaries shall be removed from the site within 12 months of the expiry of the temporary consent.

Reason : In the interests of the visual amenity of the street scene and the setting of local Heritage Assets and granting a permanent consent for the means of enclosure would not be considered acceptable.

- (3) Within one month of the date of this decision the pink paint on the uprights of the security fencing panels hereby approved shall be removed and the fencing returned to its original metal colour/finish.

Reason : In the interests of the visual amenity of the street scene and the setting of local Heritage Assets.

INFORMATIVES

- (1) The applicant is advised that permanent consent for the security fencing would not be forthcoming should a future application be submitted and that any future application for a permanent means of enclosure to the western boundary should propose a scheme that has been sensitively designed taking into consideration the setting of local heritage assets and should seek to preserve or enhance the character of the local area.

The applicant is advised to seek pre-application advice on any scheme prior to submission of a formal planning application.

Case Officer: Rachael Elliott