

<b>AGENDA ITEM NO. 15</b>	
<b>PLANNING COMMITTEE</b>	
<b>DATE</b>	<b>30 APRIL 2014</b>
<b>TITLE</b>	<b>LAND AT 62A WEST END, MARCH, CAMBRIDGESHIRE, PE15 8DL</b>

**1. PURPOSE/SUMMARY**

To re-confirm the Committee's Authorisation to serve a Conservation Area Enforcement Notice.

**2. KEY ISSUES**

Without permission, the demolition and removal of a wall (above 1metre in height) from a conservation area.

**3. RECOMMENDATION(S)**

It is recommended that Members resolve to continue authorise Enforcement Notice proceedings under Section 38 Listed Buildings and Conservation Areas Act 1990 in order to secure the reinstatement of the wall.

In addition Members are recommended to authorise prosecution proceedings under Section 38 Listed Buildings and Conservation Areas Act 1990 should any formal Notice proceedings, authorised and issued, not be complied with

Members are also respectfully requested to authorise, under Section 38 of the Listed Buildings and Conservation Areas Act 1990, the commencement of default works should compliance not be achieved by the measures outlined above.

<b>Wards Affected</b>	March West Ward
<b>Forward Plan Reference No.</b> (if applicable)	N/A
<b>Portfolio Holder(s)</b>	Cllr Simon King/Cllr Peter Murphy
<b>Report Originator</b>	Mella McMahon – Area Development Manager
<b>Contact Officer(s)</b>	Mella McMahon – Area Development Manager
<b>Background Paper(s)</b>	ENF/192/11/CONSRV

## 1. BACKGROUND

- 1.1 The Planning Committee resolved on 22 August 2012 to authorise enforcement notice proceedings under Section 38 of the Listed Buildings and Conservation Areas Act 1990 to secure the re-instatement of a wall at 62A West End, March. Enforcement proceedings have been held in abeyance pending the outcome of an appeal decision (issued January 2014) for a replacement wall at the site. This report updates members on the appeal decision and progress on the Core Strategy and seeks re-confirmation from the Committee for the enforcement action.
- 1.2 The site comprises a garden located opposite the principal elevation of 62a West End, adjacent to the highway. It is within the March Conservation Area and adjoins a Grade II Listed Building, No 62 West End, March. Characteristically West End displays many cottage-style dwellings fronting the north side of the narrow roadway, which separates properties from gardens sloping down to the River Nene.
- 1.3 In March 2009 planning permission was granted for a 2-storey side extension and 2 metre (max) high wall with railings to existing dwelling (F/YR09/0096/F). In August 2011 a section of boundary wall adjacent the highway, was completely removed to accommodate the storage of materials being used in the construction of the approved development
- 1.4 The site is located within a Conservation Area and therefore conservation area consent was required for the removal of the wall. The original wall maintained an overall height of approximately 1.30 metres and was approximately 10 metres in length.
- 1.5 Following a site visit from a Council Compliance Officer, a breach of planning control was identified. It was agreed with the owner that the wall would be fully reinstated once the approved extension was constructed. However, the development is complete and the wall has not been reinstated.
- 1.6 In May 2013 an application for planning permission was submitted for the erection of a 1.5 metre high (max) brick wall with wrought iron gates to replace the previously existing boundary wall. The application was refused for failing to conserve or enhance the character of the March Conservation Area by virtue of its design with the introduction of gates which were considered to be at odds with the general enclosure of the riverside gardens along West End and on highway safety grounds.
- 1.7 A subsequent appeal against the refusal of planning permission was dismissed in January 2014 (copy attached). Of particular relevance is paragraph 7 where the Inspector concluded "*Thus, the loss of the previous wall and its replacement with the proposal before me would not preserve the character of the March Conservation Area, but this would be less than substantial harm as set out in the Framework.*"

## 2. POLICIES

- 2.1 The Planning (Listed Buildings and Conservation areas) Act 1990 imposes duties requiring special regard to be had to the desirability, at Section 72(1), of preserving or enhancing the character or appearance of a Conservation Area.
- 2.2 Although the Core Strategy will replace all of the existing or "saved" policies of the Fenland District-wide Local Plan (1993), this document remains part of the statutory development plan for the district until the Core Strategy is formally adopted by the Council.

Saved Policy E12 of the Plan normally requires all development within the conservation area to preserve or enhance its special architectural or historical interest. Saved Policy E14 states that: 'The District Council will seek to protect important features within conservation areas which form an essential part of their character.'

2.3 There has been considerable progress on the Fenland Local Plan Core Strategy since the previous Council resolution in August 2012. The Plan has been found sound at examination. The Council will consider adoption of the Core Strategy at Cabinet and Full Council on 8 May 2014. Provided it is approved, the Core Strategy will then have full statutory weight. Due to its advanced stage, in accordance with paragraph 216 of the NPPF, significant weight can be accorded to the Core Strategy. Policy CS18 provides that the Council will protect, conserve and seek opportunities to enhance the historic environment throughout Fenland.

### **3. CURRENT SITUATION**

- 3.1 The March Conservation Area Appraisal (July 2008) identifies that walls comprise a distinctive boundary treatment within this part of the Conservation Area. The original boundary-wall (shown on the photograph at Appendix 1) represented an attractive, boundary feature of a traditional design and worthy of preservation in view of its contribution to the distinctive character of this part of the Conservation Area. Therefore, its removal does not preserve or enhance the character and appearance of the Conservation Area.
- 3.2 Furthermore, an additional brick-wall and area of hard-standing has been developed within the garden. The new wall is set back from the boundary line by approximately 5 metres and has been constructed using modern methods and new materials. This development has introduced a stark, visually intrusive element and, since the original wall is no longer in place, the street-scene has altered significantly due to the open view afforded into the garden area. Both the lack of a traditional boundary wall and the inclusion of this discordant, modern feature in the historic environment have exacerbated the visual harm to the Conservation Area.
- 3.3 The owner of the Land, who is responsible for the removal of the wall, has previously shown a willingness to comply. However; it is considered that the wall is of such importance to the character and appearance of the Conservation Area that it requires a formal notice to stipulate exactly how the wall should be reinstated and to prevent a repeat of this situation.

### **4. CONCLUSION**

- 4.1 Having given consideration to the circumstances of this matter officers have concluded that it is reasonable, necessary and expedient to take formal Enforcement Notice proceedings under 38 Listed Buildings and Conservation Areas Act 1990 in order to remedy the current breach of planning control and protect the development in question in future. A copy of the draft enforcement notice is attached at Appendix 2. The timescale for compliance is 90 days. This is based on current lead-in times for ordering bricks and the likely timescale for securing a builder to carry out the works.

- 4.2 Officers also request that, should there be a failure to comply with the Enforcement Notice, they be authorised to commence prosecution proceedings under the aforementioned act.
- 4.3 Officers also request that on failure to comply with any Enforcement Notice, and/or successful prosecution, Members authorise that default works be carried out in order to remedy the identified breach of planning control.

## APPENDIX 1

### Wall prior to demolition



### Wall post demolition





## Appendix 2

### **IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990**  
(SECTION 38)

## **CONSERVATION AREA ENFORCEMENT NOTICE**

Notice Number: /

Issued by: Fenland District Council

1. **Fenland District Council** (the "Authority") is the Local Planning Authority for the purposes of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the "Act") in relation to the wall described in the First Schedule, which forms part of the garden of the property known as 62a West End, March, Cambridgeshire, PE15 8DL.

It appears to the Authority that the works specified below have been executed to the building and are such as to constitute a contravention of Sections 7 and 9(1) (as provided by section 74) of the Act.

2. **THE LAND TO WHICH THE NOTICE RELATES:**

Land at **62a West End, March, Cambridgeshire, PE15 8DL** (shown edged red on the attached plan), herein after referred to as 'the land'.

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF CONSERVATION AREA PLANNING CONTROL**

Without conservation area consent the demolition of a boundary wall (above 1metre in height) in a conservation area (shown in the approximate area by a blue-line on the attached plan).

4. **REASON FOR ISSUING THE NOTICE**

A section of the garden boundary wall adjacent to the highway, was completely removed. The site is located within an area of special control and the wall in question abuts the highway. The original wall maintained an overall height of approximately 1.30 metres and was approximately 10 metres in length.

Policy CS18 of the Fenland Local Plan Core Strategy (Submission Version September 2013) provides that the Council will protect, conserve and seek opportunities to enhance the historic environment throughout Fenland.

Saved Policy E12 of the Fenland District Plan (1993) normally requires all development with the conservation area to preserve or enhance its special

architectural or historical interest. To this end, development should seek to retain buildings which are important to the character of the area.

Saved Policy E14 of the Fenland District Plan (1993) states that: 'The District Council will seek to protect important features within conservation areas which form an essential part of their character.'

The original boundary-wall represented an attractive, boundary feature of a traditional design and worthy of preservation in view of its contribution to the distinctive character of this part of the Conservation Area. Therefore, its removal does not preserve or enhance the character and appearance of the Conservation Area.

It is for this reason that the Local Planning Authority considers it appropriate, reasonable and expedient to issue this Enforcement Notice.

#### **5. AS THE PERSON RESPONSIBLE YOU ARE REQUIRED TO DO**

- i) Rebuild the 9.6m stretch of boundary wall fronting the highway as indicated on the attached Plan.
- ii) The wall shall be rebuilt to a height of 1320mm with end pier to right hand side no higher than 1520mm (excluding the height of any ball finial which maybe introduced to the top of the pier). To the top of the pier on the right and side a ball finial shall be introduced in precast Portland stone. The finial shall be no higher than 300mm.
- iii) The wall shall be rebuilt in English bond brickwork using a Hoskins Old Farmhouse facing brick and using white cement mortar and sharp sand. The foundations of the wall and the specification of the mortar mix must be adequate to ensure safe and stable construction of the wall. The capping shall be in a blue clay ridge tile.

#### **6. TIME FOR COMPLIANCE:**

Ninety (90) days from the date this Notice takes effect

#### **7. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on **May 2014** unless an appeal is made against it beforehand.

Dated: April 2014