

<b>AGENDA ITEM NO 17</b>	
<b>PLANNING COMMITTEE</b>	
<b>DATE</b>	<b>28 MAY 2014</b>
<b>TITLE</b>	<b>LAND AT 62A WEST END, MATCH, 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 Will Sutton
<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 Appendix 2). 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 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 and the Council adopted the Core Strategy, now called the Fenland Local Plan 2014, at Council on 8 May 2014.

Policy CS18 provides that the Council will protect, conserve and seek opportunities to enhance the historic environment throughout Fenland. The new Local Plan has replaced the Fenland District-wide Local Plan (1993)

### **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 3. 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







## Appeal Decision

Site visit made on 9 December 2013

by **J L Cheesley BA(Hons) DIPTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 January 2014

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**Appeal Ref: APP/D0515/D/13/2206645**

**62a West End, March, Cambridgeshire PE15 8DL**

- 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 G A G Campbell against the decision of Fenland District Council.
  - The application Ref F/YR13/0326/F was refused by notice dated 16 July 2013.
  - The development proposed is garden wall.
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### Decision

1. The appeal is dismissed.

### Main issues

2. I consider the main issues to be:  
the effect of the proposal on the character of the March Conservation Area; and  
the effect of the proposal on highway and pedestrian safety.

### Reasons

3. 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.
4. The National Planning Policy Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
5. The appeal site lies within the March Conservation Area, a designated heritage asset. This is characterised as a mix of residential, commercial, retail and recreational facilities within the historic core of the town. Characteristically where there are boundary walls to the gardens along the riverside in West End, these are generally punctuated with small, pedestrian gates.
6. The proposal is to provide new walls and gates to an existing garden area fronting the river. This would allow for visitor parking on a paved area. I understand that a previous wall has been demolished. I note that this wall was rebuilt with the traditional materials in the 1990s. It was of traditional design and has recently been demolished without Conservation Area consent. I understand that the wall was of similar traditional design to others along this stretch of West End, with a pedestrian gate. I understand that the previous

wall did not extend the full width of the site, as part of the boundary was fencing.

7. The proposed sliding gates would reach some 1.2 metres in height and would be some 3.5 metres in width. The proposed design of the walls and gates would create the appearance of a boundary treatment dominated by wide gates. This would not be in keeping with the traditional discrete pedestrian gates that are a characteristic of walled boundaries in the vicinity. Thus, the loss of the previous wall and 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.
8. At my site visit, it was apparent that West End, although providing vehicular access, is extensively used by pedestrians and cyclists. The proposed gates and walls would provide very limited visibility for drivers when negotiating driving in and out of the site. The proposed parking area is not large and West End at this point is narrow. In my opinion, considerable manoeuvring would be required to park a car on the paved area. In addition, whilst I note that the appellant has rights of access along West End, there would be likely to be an intensification of use if the appeal site were to provide the proposed visitor parking.
9. The safety of drivers, pedestrians and cyclists has to be of utmost importance. In my opinion, due to the lack of visibility, narrowness of West End and configuration of the parking area, I consider that the proposal would have an adverse effect on highway and pedestrian safety.
10. Having regard to the Framework, I find for the above reasons that the harm is not outweighed by any public benefit.
11. In reaching my conclusion, I have had regard to all other matters raised, including examples of other parking areas along West End. I note that many of these are historical. I consider that they detract from the pleasant riverside garden character along West End. In my opinion, the presence of harmful development elsewhere is not a good reason to allow the proposal.
12. I conclude that the proposal would not preserve the character of the March Conservation Area and would have an adverse effect on highway and pedestrian safety. Thus, the proposal would be contrary to saved Policies E8, E11, E12 and E14 in the Fenland District Wide Local Plan (1993), with regard to preserving the character of Conservation Areas and highway safety.
13. In this particular instance, I consider that these policies are broadly in accordance with the Framework as far as they meet the Framework's core principles; particularly that planning should be seeking to conserve heritage assets in a manner appropriate to their significance; and Framework policies with regard to highway safety.
14. I have been referred to emerging Policies CS16 and CS18 in the Fenland Local Plan Core Strategy (submission version September 2013). These may be subject to further amendment, thus I have attributed limited weight to these emerging policies in my determination of this appeal.

*J I Cheesley*

INSPECTOR

## Appendix 3

### **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 (2014) provides that the Council will protect, conserve and seek opportunities to enhance the historic environment throughout Fenland.



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